

16 JANUARY 1948

I N D E X
of
WITNESSES

Defense' Witnesses

Page

KONOYE, Mrs. Yasuko (resumed)	37501
Redirect by Mr. Comyns Carr	37501
Question by the President of the Tribunal, Sir William Webb	37505
Redirect (cont'd) by Mr. Comyns Carr	37509
Questions by the President of the Tribunal, Sir William Webb	37512
Redirect (cont'd) by Mr. Comyns Carr	37513
Recross by Mr. Brooks	37518

MORNING RECESS

37525

(Witness excused)

37534

NOON RECESS

37544

16 JANUARY 1948

I N D E X
of
EXHIBITS

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
			(Correction as to Exhibit No. 3751 marked yesterday for Identification)		
3150-378		3751	Photostatic Copy of the original SAIONJI-HARADA Memoirs	37548	
3150-378-B		3751-A	Excerpt therefrom - Chapter 378 (pp. 2974-7)		37548
3150-2		3754	The SAIONJI-HARADA Memoirs	37560	
3150-2A		3754-A	Excerpt therefrom - Chapter 2 (pp. 7-8)		37560
3150-2B		3754-B	The SAIONJI-HARADA Memoirs - Chapter 2 (p.8)		37567
3150-8		3755	The SAIONJI-HARADA Memoirs	37569	
3150-8A		3755-A	Excerpt therefrom - Chapter 8 (pp. 47-48)		37569
3150-10		3756	The SAIONJI-HARADA Memoirs	37571	
3150-10A		3756-A	Excerpt therefrom - Chapter 10 (p. 53)		37571
			<u>AFTERNOON RECESS</u>		37573

16 JANUARY 1948

I N D E X

Of

EXHIBITS

(cont'd)

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
3150-11		3757	The SAIONJI-HARADA Memoirs	37574	
3150-11A		3757-A	Excerpt therefrom - Chapter 11 (pp. 74-5)		37575
3150-11B		3757-B	Excerpt from the SAIONJI-HARADA Memoirs - Chapter 11 (pp. 77-8)		37577
3150-12		3758	The SAIONJI-HARADA Memoirs	37579	
3150-12A		3758-A	Excerpt therefrom - Chapter 12 (pp. 86-9)		37579
3150-13		3759	The SAIONJI-HARADA Memoirs	37586	
3150-13B		3759-A	Excerpt therefrom - Chapter 13 (p. 102)		37586
3150-14		3760	The SAIONJI-HARADA Memoirs	37589	
3150-14A		3760-A	Excerpt therefrom - Chapter 14 (p.106)		37589
3150-15-16		3761	The SAIONJI-HARADA Memoirs	37591	

16 JANUARY 1948

I N D E X

of

EXHIBITS

(cont'd)

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
3150-15-16A		3761-A	Excerpt therefrom - Chapter 15 and 16 (p. 135)		37591
3150-36		3762	The SAIONJI-HARADA Memoirs	37598	
3150-36A		3762-A	Excerpt therefrom - Chapter 36 (pp. 286-7)		37598

1 Friday, 16 January 1948

2 - - -

3 INTERNATIONAL MILITARY TRIBUNAL
4 FOR THE FAR EAST
5 Court House of the Tribunal
6 War Ministry Building
7 Tokyo, Japan

8 The Tribunal met, pursuant to adjournment,
9 at 0930.

10 Appearances:

11 For the Tribunal, all Members present, with
12 the exception of: HONORABLE JUSTICE HENRI BERNARD,
13 Member from the Republic of France, not sitting from
14 0930 to 1600; HONORABLE JUSTICE JU-AO MEI, Member
15 from the Republic of China, not sitting from 1100 to
16 1600.

17 For the Prosecution Section, same as before.

18 For the Defense Section, same as before.

19 - - -

20 (English to Japanese and Japanese
21 to English interpretation was made by the
22 Language Section, IMTPE.)
23
24
25

L
e
f
f
e
r
&
W
o
l
f

1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present
4 except SHIRATORI who is represented by counsel. The
5 Sugamo prison surgeon certifies that he is ill and
6 unable to attend the trial today. The certificate
7 will be recorded and filed.

8 Mr. Comyns Carr.

9 - - -

10 Y A S U K O K O N O Y E, called as a witness on
11 behalf of the prosecution, resumed the stand
12 and testified through Japanese interpreters
13 as follows:

14 REDIRECT EXAMINATION

15 BY MR. COMYNS CARR:

16 Q Mrs. KONOYE, you told my friend, Mr. Logan,
17 that on the whole the dictations were taken once or
18 twice a week. Can you give us any idea how often, say
19 in a year, the intervals were longer than that?

20 MR. LOGAN: If the Tribunal please, it is a
21 waste of time to ask questions like that. The witness
22 has already answered that question yesterday; she said
23 she didn't know.

24 THE PRESIDENT: I really think we have heard
25 enough about the intervals and those matters, Mr. Carr.

BY MR. COMYNS CARR (Continued):

1 Q Now, when Mr. Logan put a question, which
2 I think was ambiguous and I want to tear it up
3 completely: Does the diary or memoirs, of which we
4 have the photostatic copy here, incorporate any
5 alterations whatever by the Mr. SATOMI about whom
6 you were asked?
7

8 THE PRESIDENT: In the last answer she said
9 they did, but I think we would like it cleared up.
10 There is an apparent contradiction. I think we have
11 different views of what she really said, depending
12 upon the meaning of the word "document."

13 MR. LOGAN: If the Tribunal please, may I be
14 heard on this?

15 THE PRESIDENT: We want it cleared up, Mr.
16 Logan. We will give permission, if necessary.

17 MR. LOGAN: If the Tribunal please --

18 THE PRESIDENT: We want Mr. Carr to clear
19 it up. We want Mr. Carr to put that question. If he
20 does not, we will, and we will do it now.

21 MR. LOGAN: If the Tribunal please, throughout
22 this trial this Tribunal has consistently ruled on
23 objections by Mr. Carr that we could not ask any
24 questions to contradict or try to get a witness to
25 change his story. Now, this is quite clear --

1 THE PRESIDENT: Mr. Logan, I already told
2 you that the Judges differ as to whether there was
3 a contradiction and it must be cleared up. Some
4 Judges take your view; I am one of them. Others
5 do not. And obviously it is a matter that must be
6 cleared up.

7 MR. LOGAN: If the Tribunal please, I haven't
8 even expressed my view yet. I would like to find out --
9 it may obviate the necessity of asking this witness
10 questions just to show how clear it does appear in
11 this record -- just what she did mean.

12 THE PRESIDENT: I know what you mean. Clear
13 as it appears to me and perhaps to other Judges, it is
14 not so clear to the remainder.

15 MR. LOGAN: Well, for the purposes of my
16 objection, may I have a ruling on it?

17 BY MR. COMYNS CARR (Continued):

18 Q What is the answer, Mrs. KONOYE? Does the
19 document, as we have it here, contain any corrections
20 or alterations by SATOMI?

21 A No, they are not included or incorporated.

22 THE MONITOR: Strike out "incorporated"; she
23 merely said "It is not in there."
24

25 MR. COMYNS CARR: If you have any doubt I
will ask the witness to answer it again, interpreter.

1 THE PRESIDENT: Refer her to the answer of
2 yesterday, the last one; the one upon which Mr.
3 Logan obviously relies. It is at page 37,489.

4 Q You were asked this yesterday, Mrs. KONOYE,
5 at page 37,489 or -488, the bottom, "On what document
6 did SATOMI's corrections appear?" And you said: "I
7 rewrote the document which HARADA had taken to
8 SAIONJI for correction, and SATOMI corrected the
9 rewritten copy of that document.

10 "Q And then did you rewrite it again?

11 "A Yes."

12 And then, reading one question earlier, the
13 bottom of -488: "You just said, Mrs. KONOYE, that
14 SATOMI's corrections do not appear on that document.
15 To what document are you referring?

16 "A To the manuscript which HARADA took to
17 SAIONJI for correction."

18 Then it goes on as I read.

19 Then the last question is at the top of
20 37,490:

21 "You state in your affidavit as follows: 'I
22 have been shown by Mr. J. G. Lambert, IPS Investigator,
23 a photostatic copy of this finished transcription which
24 I recognize as the memoirs of Baron HARADA written
25 by me in my own handwriting.' Is that photostatic

1 copy that you saw a copy of the document you just
2 spoke about?

3 "A Yes."

4 THE PRESIDENT: I will put the next question.

5 MR. LOGAN: If the Tribunal please, before
6 asking the question --

7 THE PRESIDENT: You cannot interrupt. I
8 said I would put a question and I am not going to
9 allow you to interrupt any Judge.

10 Now, is the copy of the document, which you
11 refer to there in your answer, the copy rewritten by
12 you after SATOMI had made corrections?

13 THE WITNESS: Not so.

14 MR. LOGAN: May I say something now, if the
15 Tribunal please?

16 THE PRESIDENT: You may object at any stage,
17 but not to what a Judge is going to ask.
18
19
20
21
22
23
24
25

1 MR. LOGAN: It would appear to me, if the Tri-
2 bunal please, that the method in which Mr. Carr read
3 these questions by taking the middle questions and then
4 a previous one and then one subsequent and superimposed
5 on the question which your Honor has asked this witness,
6 and I don't follow it myself. I don't know what docu-
7 ment is being referred to. It isn't in the transcript.

8 MR. BROOKS: If your Honors please, I would like
9 to enter an objection because, as I tried to point out
10 yesterday -- I think maybe the Court will see it now --
11 there may be two original documents, and there has been
12 no document shown or identified. I understand they are
13 so large they couldn't be brought into the courtroom,
14 and I don't see how they could have been shown to this
15 witness. I can't find from the prosecution the location
16 of what they say is the original. Now, I am not talking
17 about the original of the photostat, necessarily, which
18 is in question, but I understand that the original that
19 has been untampered with is available and could be ob-
20 tained if proper search and request were made, and I say
21 that that is the best evidence, and I would object to
22 any document being offered under this witness' testimony
23 as coming from a tampered document or from a document
24 which has been corrected and changed as not being the
25 best evidence.

1 It seems there is not only such a possible
2 original but there are diaries upon which that is based
3 that might be even better evidence yet. That is why I
4 requested yesterday that the prosecution be required to
5 produce such document or, at least, samples of the first
6 and last copies so that I could cross-examine on them,
7 and I ask the Court to reconsider my request at this time

8 THE PRESIDENT: Mr. Carr.

9 MR. COMYNS CARR: Your Honor, the witness was
10 shown the whole of the photostatic copies when she
11 identified them in her first affidavit in this building.
12 We have only brought into court those parts which we
13 propose to use, but if the Court desires that the whole
14 be brought into court, it is merely a question of labor
15 in carrying it down and could be done quite easily.

16 (Mr. Brooks approached the lectern.)

17 THE PRESIDENT: Now, Mr. Brooks, please do not
18 interrupt.

19 I think you said that these photostats were
20 handed to the Clerk of the Court in the second half of
21 last year, is that so?

22 MR. COMYNS CARR: No.

23 THE PRESIDENT: In August.

24 MR. COMYNS CARR: No, your Honor. What was
25 handed to the Clerk of the Court was the complete

1 English translation as prepared by SCAP. Owing to the
2 fact that both parties required to work upon the Japa-
3 nese photostats, those were retained upstairs in the
4 Document Division of the IPS and have been available for
5 both parties to work on for translation ever since.

6 THE PRESIDENT: How long have the photostats
7 been available to the defense?

8 MR. COMYNS CARR: From the same date; August
9 last year, your Honor; August 29.

10 THE PRESIDENT: Well, the defense will be at
11 liberty to point out in the photostats anything that
12 SATOMI has written.

13 MR. COMYNS CARR: With regard to the originals
14 for which my friend, Mr. Brooks, is asking, as your
15 Honor pointed out yesterday, the photostat is a precise
16 reproduction of them and anything which can be deduced
17 from any state of the text can equally well be done from
18 the photostat as from the original.

19 But if the Tribunal thinks that anything would
20 be gained by bringing the original or any part of it
21 here, we will take steps to have it done.

22 THE PRESIDENT: We do not see any need to bring
23 the whole or any part of it here yet.

24 MR. BROOKS: If Mr. Carr is through, I would
25 like to be heard, because you are talking about the

1 original. What original are you talking about? He
2 talks about the original very glibly.

3 THE PRESIDENT: He will not make it any clearer
4 if he is continually subjected to your interruptions.
5 There is not any reason at all why he should not be
6 allowed to complete his re-examination. You may approach
7 the lectern with any application or request you think
8 fit.

9 Proceed, Mr. Carr.

10 MR. BROOKS: If your Honor please, I have
11 approached the lectern with a request.

12 THE PRESIDENT: Mr. Carr, will you put a ques-
13 tion? If Mr. Brooks objects, we will have to consider
14 his objection.

15 MR. COLYNS CARR: Your Honor, if any Member of
16 the Tribunal is still in doubt as to exactly what correc-
17 tions were and what were not incorporated in the docu-
18 ment which has been photostated, I should like to put a
19 further question about it, but if all Members of the Tr-
20 bunal are quite clear on that point, I will not do so.

21 MR. BROOKS: I wish to object, your Honor.

22 THE PRESIDENT: Put the further question.

23 BY MR. COLYNS CARR (Continued):
24

25 Q Mrs. KONOYE, in the Memoirs, as we have them
photostated here, are there incorporated the corrections

and alterations by Prince SAIONJI?

1 MR. BROOKS: I object, if your Honor please.
2 There is no Memoir before the witness. If he is going
3 to examine this witness on these Memoirs, I ask that
4 they be properly identified and she has something in
5 her hand to talk from. There is too much confusion on
6 it.

7 THE PRESIDENT: Let her answer the question.

8 A There are only a few corrections and additional
9 notations by Prince SAIONJI, and I think they are to be
10 found here and there.
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 Q But however many or few there are, are they
2 incorporated in the Diary which you identified, and
3 of which you can see a specimen if you like?

4 A I need not be shown the document.

5 Q Then what is the answer? Are such corrections
6 as SAIONJI made incorporated in the document you saw
7 here in this building and identified?

8 MR. BROOKS: I object to that question as a
9 leading question on a very important matter, your
10 Honor.

11 THE PRESIDENT: Objection overruled.

12 Q Then what do you say, Mrs. KONOYE?

13 A With regard to whether or not Mr. SATOMI
14 made any additional notations or not, I wish to say
15 that the document which is in photostat form --
16 the document from which the photostats were taken,
17 contained corrections and notations made by Prince
18 SAIONJI. The corrections and notations made by
19 SATOMI were made on a rewritten copy which I made
20 on the basis of the document on which Prince SAIONJI
21 made his corrections.

22 THE MONITOR: Correction to the last part:
23 "SATOMI's corrections were made on another copy which
24 I made from the original from which the photostat
25 copies were made." And the witness continued to say

"Yesterday --", and she was interrupted.

1 THE PRESIDENT: Are these corrections in
2 Prince SAIONJI's handwriting?

3 THE WITNESS: Yes.

4 THE PRESIDENT: I would like that last answer
5 of the witness repeated. I would like it repeated very
6 slowly.

7 (Whereupon, the last answer was
8 read by the official court reporter.)

9 THE PRESIDENT: Were SATOMI's corrections made
10 on the copy which was photostated?

11 THE WITNESS: No, there isn't any at all. What
12 I said yesterday was that Mr. SATOMI made his corrections
13 on a copy which I made myself from the original from
14 which the photostat was made.

15 THE MONITOR: "Was previously made."

16 THE PRESIDENT: That is clear enough.

17 MR. BROOKS: But, if your Honor please, you are
18 assuming that she was present when the photostats were
19 made.

20 THE MONITOR: Just a moment, please. Reporter,
21 will you strike out the last correction of "previously",
22 please? That should be out.

23 MR. BROOKS: You can see the significance now
24 of having before us to examine what was the original
25

1 because the man making a photostat is just taking a
2 photograph. He doesn't know, since it is in Japanese,
3 whose handwriting it is in, and she doesn't know just
4 which one of these copies she is talking about was
5 photographed. We can't tell from the photostat copy,
6 if your Honor please, because, as the witness says,
7 it has been rewritten twice and it would naturally,
8 even after the corrections had been made, it would
9 naturally appear in her handwriting, with only
10 SAIONJI's corrections on it. It is no test.

11 THE PRESIDENT: Mr. Carr.

12 MR. COMYNS CARR: Does any member of the
13 Tribunal wish any further clarification of that
14 matter, or is it clear to everybody?

15 THE PRESIDENT: No member of the Tribunal
16 desires any further clarification.

17 MR. COMYNS CARR: If the Tribunal please.
18 BY MR. COMYNS CARR:

19 Q Now, you were asked by Mr. Logan about the
20 difficulty you had in transcribing Baron HARADA's
21 dictation and finding out what was the subject of the
22 sentence, and so on. When you had transcribed each
23 portion and handed it, as you have told us, to Baron
24 HARADA to take to Prince SAIONJI, did Baron HARADA read
25 it through himself?

1 A Generally I think he read it through and where
2 he found mistakes I think he made corrections.

3 Q Now, on page 37,493 you were asked a question
4 about Chapter 262, dated the 9th of February, and about
5 the first entry in it. I want you to look again at
6 Chapter 262, please.

7 (Whereupon, a document was handed
8 to the witness.)

9 Does that chapter begin with a date? I don't mean the
10 date at the head of the chapter, but the first sentence
11 of it, does it contain a date?

12 A At the beginning of the text I find the date
13 31 January.

14 (Whereupon the Monitor spoke to
15 the Japanese Court Reporter.)

16 THE INTERPRETER (Resuming): At the beginning
17 of the sentence I find the date "31 January."

18 Q My friend read it -- he was mislead by a mis-
19 typing in the translation -- read it as 21 January, and
20 based upon that an argument that there was a long interval
21 between then and the 9th of February, the date which
22 the chapter bears. The correct date is 31 January.

23 Now, would you look at the preceding chapter,
24 261? Is the date at the head of that one 28 January?

25 A It says January 21.

KONOYE

REDIRECT

37,515

Q I was asking you at the moment about the date
1 under the chapter number, Chapter 261; is the date there
2 following "28 January?"
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 MR. LOGAN: If the Tribunal please, this
2 witness has testified orally that she used to go up
3 there on occasions once every three weeks more or less,
4 and she stated in her affidavit she used to go up there
5 once a week or once or twice a week. The only reason
6 I started to use these documents yesterday was to show
7 that this record bore out the statement that she went
8 up there once every three weeks on some occasions.
9 I think it is a waste of time to go through these same
10 documents.

11 THE PRESIDENT: That is a matter entirely with-
12 in our discretion. We won't allow time to be wasted.

13 Proceed, Mr. Carr.

14 BY MR. COMYNS CARR:

15 Q Mrs. KONOYE, as to Chapter 261, you have the
16 heading there "Chapter 261," have you?

17 A It says the "261st," and to the right end and
18 toward the edge the date "January 28."

19 Q Yes. Now, does that chapter begin also with
20 a reference to a date?

21 A The date at the beginning of the sentence is
22 January 21.

23 THE MONITOR: Strike out "January"; just
24 "21."

25 Q Now, I have only one further question.

1 These memoirs are divided into chapters, as
2 we have seen from these examples. Was each chapter
3 dictated at one sitting or at more than one?

4 A Then the dictation was rather short, dicta-
5 tion for two occasions were combined to constitute
6 one.

7 Q And when we find a long chapter was that dic-
8 tated all at the same time or at more than one time?

9 A That I don't quite recall exactly.

10 MR. COMYNS CARR: That is all I ask.

11 MR. BROOKS: On behalf of General MINAMI
12 and General KOISO I wish to cross-examine.

13 THE PRESIDENT: It is too late. If he has
14 brought out new matter affecting either of those two,
15 you have the liberty to cross-examine to that extent.

16 MR. COMYNS CARR: In my submission, your Honor,
17 everything I put was strictly re-examination and there
18 is no new matter in it.

19 THE PRESIDENT: What is the new matter, Captain
20 Brooks?

21 MR. BROOKS: Would you like it by question?
22 I think the Court can judge very quickly from the first
23 couple of questions.

24 THE PRESIDENT: It is easier to indicate the
25 new matter.

1 MR. BROOKS: That is what I mean, indicate it
2 in the question, to save time.

RECROSS--EXAMINATION

3
4 BY MR. BROOKS:

5 Q Did HARADA dictate by chapters?

6 A Yes.

7 Q And at the time when he dictated by chapter
8 was a heading given to that chapter?

9 MR. COMYNs CARR: I object to this, your
10 Honor. It is entirely new matter.

11 THE PRESIDENT: Objection allowed, obviously.

12 MR. BROOKS: Did I understand --

13 THE PRESIDENT: Objection allowed.

14 Q Were the headings placed at the chapters put
15 on there after this book was edited by SATOMI?

16 A No, that wasn't the case.

17 THE PRESIDENT: Mr. Carr, you had better take
18 objection. This witness is answering.

19 MR. BROOKS: I didn't hear from Mr. Carr.

20 THE INTERPRETER: The witness replied, "That
21 wasn't the case."

22 THE PRESIDENT: That question is improperly
23 put, Captain Brooks. You are not entitled to put those
24 questions at this stage.

25 MR. BROOKS: Mr. Carr answered the question

1 saying they were put in there by SCAP and were not
2 in the original Japanese.

3 MR. COMYNS CARR: They are not in the Japanese
4 at all, the headings my friend is speaking of, which
5 are in the SCAP translation, and I shall not be using
6 any part of them, so my friend need not trouble with
7 them.

8 MR. BROOKS: I would like to ask if the trans-
9 lators' insertions were also put in there by SCAP, or
10 is that by this witness?

11 MR. COMYNS CARR: Translators' notes are of
12 course put in by the translators.

13 MR. BROOKS: Who were the translators, if your
14 Honor please?

15 MR. COMYNS CARR: I don't know why I should be
16 cross-examined.

17 THE PRESIDENT: To get a series of admissions,
18 I take it.

19 MR. COMYNS CARR: Your Honor, if my friend
20 had been listening to my running commentary yesterday,
21 he would know that all the entries we are about to put
22 in have had the SCAP translation revised by our own
23 translators, including, of course, the notes.

24 MR. BROOKS: You can see surely, this Tribunal,
25 that the only way we can be satisfied of what is in

1 there that is not hearsay or rumor or revision is to
2 get the originals in here and give us a fair opportunity
3 to check on these documents. We can't even check
4 translations.

5 MR. COMYNS CARR: Your Honor --

6 MR. BROOKS: Just a minute; I haven't finished.

7 MR. COMYNS CARR: I am objecting.

8 MR. BROOKS: Wait until I finish.

9 MR. COMYNS CARR: I am objecting now.

10 MR. BROOKS: I haven't finished. I would like
11 to finish, your Honor.

12 THE PRESIDENT: We will have to adjourn if
13 this disorderly procedure continues. Between you, you
14 should have some regard for the Tribunal and not try
15 to talk together. That is utterly disorderly. I have
16 never known it to happen before and I have been over
17 twenty years on the bench. If you have no regard for
18 each other, you should have every regard for us.
19
20
21
22
23
24
25

G
r
e
e
n
b
e
r
g
&
Y
e
l
d
e
n

1 MR. COMYNS CARR: Your Honor, may I take an
2 objection to the line of argument that is now being
3 presented?

4 THE PRESIDENT: If Mr. Brooks has completed
5 what he has to say--

6 MR. BROOKS: I haven't.

7 THE PRESIDENT: --you may answer him. He
8 says he has not completed what he has to say.

9 MR. BROOKS: I desire to submit the importance
10 of having both of these documents, the originals,
11 before us so that the Language Section -- we could
12 refer them as to whether the translation produced by
13 the prosecution is based on the one she is talking
14 about or the one that I am talking about, and whether
15 the photostat, all of the photostats, are of the ones
16 that she is talking about or of the ones that I am
17 talking about, so that we can check them and also have
18 something to gauge and to use to check what additions
19 were made from the original that I am talking about.
20 It would be very important to know what SAIONJI himself
21 thought about some of HARADA's statements and it would
22 show up by this fashion. We could see the correction
23 and possibly get the trend as to why certain corrections
24 were being made, if your Honors please.

25 I would even concede, if your Honors please,

1 that it is not necessary because of the large bulk
2 to bring all of these documents in, but of both
3 series of originals, the first volume and the second
4 volume and one or two sample volumes in between, that
5 we can use for comparison and have a fair opportunity
6 to know where we stand. I cannot properly cross-
7 examine this witness, as I requested the other day,
8 until I have documents like that upon which I can
9 base proper questions.

10 THE PRESIDENT: Mr. Carr.

11 MR. BROOKS: I would like to ask for three,
12 if your Honor please, of each; the first, last and one
13 somewhere in the middle. For instance--

14 THE PRESIDENT: This is one of the most
15 important documents ever presented to a court, and
16 if there is any question about it, and there are
17 serious questions, they should be fully investigated.

18 MR. BROOKS: My Japanese counsel assures me
19 that it is vitally important and they can read Japanese.
20 I am just going on their word, your Honor. That is why
21 I am fighting up here now.

22 THE PRESIDENT: I take it your application
23 is due wholly to the fact that a witness has been
24 called, and even if you had the documents before, you
25 would need them now to cross-examine her effectively.

MR. BROOKS: That's right, your Honor.

1 THE PRESIDENT: You asked for these documents
2 yesterday, Captain Brooks--

3 MR. BROOKS: Yes, sir.

4 THE PRESIDENT: --when your right to cross-
5 examine still existed. Rightly or wrongly, I announce
6 the decision of the Court that you should not have
7 them for the time being.

8 Mr. Comyns Carr.

9 MR. COMYNS CARR: If your Honor pleases, I
10 think this is the fourth time that my friend has
11 asked for the production of original diaries and on
12 each of the previous occasions he has been overruled
13 on the ground that to look at the original of that
14 which has been photostated couldn't help anybody
15 because the photostat exactly reproduces the original.
16 In my submission that reasoning still holds good. If
17 my friend is now asking for the production of some
18 other document other than the original from which
19 these photostats were taken, I have no information as
20 to what exactly he wants nor whether it is obtainable.
21 The photostats are taken from the original document
22 as handed to SCAP, and the translations are made from
23 the photostats. The prosecution will, of course,
24 endeavor to do anything which the Court directs, but
25

1 in our submission if there is any other document in
2 existence other than the one which we have photostated,
3 the defense are in as good a position to obtain it as
4 we are.

5 THE PRESIDENT: But if they do get it, this
6 witness in the box is the one person above all others
7 who can explain it.

8 MR. COMYNS CARR: Yes, your Honor, she is.
9 It is only now for the first time that my friend has
10 suggested that there is some other document which he
11 wants to compare. In my submission it is still correct
12 to say that merely to produce the original of that
13 which has been photostated would be of no value what-
14 ever. Equally, it would be of no value to produce if
15 it is available--I don't know if it is--the much later
16 version containing some grammatical alterations by
17 Mr. SATOMI. If my friend will explain what it is
18 that he really wants and the Court thinks it will be
19 of assistance for us to produce it, we will endeavor
20 to try to trace it.

21 MR. BROOKS: I may do it on the recess unless
22 the Court wants it on the record. I think it is already
23 on the record. I would like to have part one, part two,
24 volumes one and two in both the original from which
25 the photostat was taken and the corrected copy that I

KONOYE

37,525

1 have talked about or the original copy. Now, Mr. Carr
2 seems to think there are three originals. I only
3 thought there were two. He is talking about another
4 one.

5 THE PRESIDENT: Discuss it during the recess.
6 We will recess for fifteen minutes.

7 (Whereupon, at 1045, a recess was
8 taken until 1100, after which the proceedings
9 were resumed as follows:)
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

W
h
a
l
e
n
&
W
h
e
l
e
n

1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Well, have you straightened
4 out your differences? If you haven't I was going to
5 suggest that you apply to me in Chambers, Captain
6 Brooks, for any additional documents you require in
7 this matter.

8 MR. BROOKS: I have an announcement as to the
9 documents I think would be of importance, if the Court
10 would care to hear me.

11 The point that I wish to make is that I am
12 interested in volume 1 of part 1, and volume 1 and 2
13 of part 2 particularly as they are marked on the English
14 translation of the Civil Intelligence Section.

15 Now, to make it clearer, if your Honors please,
16 I ask that of these volumes referred to we have the
17 original volume which I will call "A" and that we also
18 produce the original volume "B" which is the revised
19 volume, and also the original volume "C", which was
20 SATOMI's revision on that, so that we can compare them
21 with "D", which is the photostat as I understand of "B",
22 and that these may also be compared with the English
23 copy which we might call volume "E". Then the witness
24 may be properly cross-examined as to the differences
25 between the original "A" and the "B" from which the

1 photostatic copy "D" was made. If a small diagram is
2 made of these five volumes the Court, by placing those
3 numbers, can see the relative importance of cross-
4 examination on those and the importance to the defense
5 of knowing what changes were made in the original "A"
6 that were made by SAIONJI in "B" and whether volume "D",
7 the photostat, is a complete photostat of the revised
8 original "B" entirely or a combination of some other
9 group.

10 My statement is, then, that the original volume
11 "A", unrevised, is the best evidence and should be
12 placed before this Tribunal and it will be then for
13 this Tribunal to judge whether the revisions made in
14 volume "B" by SAIONJI or others after that were justified
15 or not.

16 On the back of the first document on the prose-
17 cution's list, IPS document 3150 378-B, there is a state-
18 ment as to the custody of part of these original volumes,
19 or as the prosecution interprets that was the intention.
20 Whether it was carried out neither the prosecution or
21 myself are aware at this time. However, I understand
22 that the original volume "A" and the original volume
23 "B" as revised are in Japan either in the hands of
24 the Emperor or of the HARADA family unless they have
25 been taken by allied sections of some nature that we

KONOE

37,528

1 don't know anything about

2 I desire volumes "A" "B" and "C", as I have
3 referred to, of these originals, three originals, to
4 use to cross-examine this witness and for other pur-
5 poses before the Tribunal. The prosecution seems to
6 understand what I want and we have it on the record,
7 if your Honors please.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

THE PRESIDENT: Mr. Comyns Carr.

MR. COMYNS CARR: May it please the Tribunal.

For the first time my learned friend has stated that he wants something other than merely the original of that which we have photostated, and if the Tribunal thinks that any part of what he is asking for will be of assistance we will, of course, make our best endeavors to get it here.

In the first place let us make it quite clear, and I think we are in agreement about this, as to what it is we have already got. We have got a photostatic copy of what my friend calls "B". That is to say, the fair copy which was made by this witness after Prince SAIONJI had made his corrections on the original draft and incorporating those corrections. No doubt the original of that document "B" is still in existence, and if the Tribunal thinks it would be of any assistance we will endeavor to procure the three volumes that my friend has asked for of that original "B". In my submission, however, for reasons stated and accepted by the Tribunal on several of the previous occasions when he has asked for that, it couldn't help anybody because the photostat is the same thing.

Now, whether what my friend calls "A", namely Baron HARADA's first drafts written by this witness.

1 from his dictation and annotated or corrected by Prince
2 SAIONJI, is still in existence or not, whether it was,
3 as the document which I am going to tender in a moment
4 and from which my friend has quoted, intended to be
5 deposited with the Emperor or not I do not know. If
6 the Tribunal so directs we will, of course, endeavor
7 to find and bring here the three parts of that to which
8 my friend has referred and for which he has asked.

9 As to what he calls "C", namely the subsequent
10 attempt by SATOMI to bring it into book form by putting
11 it in literary language, that, in my submission, is
12 entirely irrelevant, and we would ask the Tribunal
13 not to direct us to endeavor to find that.

14 Your Honor, might I just offer this sugges-
15 tion, that it might be of assistance to the Tribunal
16 in determining this question if I were to put in and
17 read in full the excerpt to which my friend has re-
18 ferred in which HARADA, himself, describes the original
19 and intended custody of the memoirs?

20 THE PRESIDENT: The majority of the Tribunal
21 refuses Captain Brooks' application, except as to
22 document "A". That may shorten the matter.

23 MR. COMYKE CARR: If your Honor pleases, then
24 we will immediately make endeavors to trace document
25 "A" and to bring here those parts of it for which

Captain Brooks has asked.

1 MR. BROOKS: If the Tribunal please, I apprec-
2 iate that very much, and if, while the prosecution is
3 making this investigation, if they would tell us, or
4 find while they are inquiring where volume "B" is
5 located so that we can use it for comparison, then we
6 would be certain that "A" was actually being brought
7 in and not "B" under the guise of "A". I am not accus-
8 ing anyone of that but it is possible on a technical
9 matter that a mistake could be made. So I will ask
10 for both of them.
11

12 (Whereupon, the above statement was
13 read back by the official court reporter at
14 the request of the Monitor.)

15 THE MONITOR: Mr. Brooks, do you have a cor-
16 rection?

17 MR. BROOKS: The correction was "So that is
18 why I asked for them." I am not asking for them now
19 because that would be in defiance of the Court's
20 ruling. I say that is why I asked for them, to prevent
21 that.
22
23
24
25

D
u
d
a
&
S
p
r
a
t
t

1 MR. COMYNS CARR: Your Honor, I have no
2 objection to giving my friend that information, if
3 I can get it, but I suspect the defense know better
4 than we do.

5 MR. WARREN: Your Honor, I want to make this
6 remark. If I know where this document was I would
7 have part of it here or I would have it here to tell
8 the Tribunal about it.

9 MR. COMYNS CARR: Your Honor --

10 THE PRESIDENT: Well, you had better
11 proceed without regard to the observation.

12 MR. COMYNS CARR: Your Honor, I ask that
13 the witness be released on the usual terms, which
14 includes, of course, that she can be brought back
15 for further cross-examination, if on the production
16 of further documents it appears necessary.

17 MR. LOGAN: If the Tribunal please, I want
18 to ask a few questions based on the prosecution's
19 redirect examination.

20 MR. COMYNS CARR: Your Honor, I object to it.

21 THE PRESIDENT: We do not wish to hear any
22 further examination of this witness at this stage.
23 The defense position will be protected. She can be
24 recalled for further cross-examination, if necessary.

25 MR. LOGAN: Under the rules which we have

1 been following, if the Tribunal please, I have a
2 right to ask this witness serveral questions just
3 the same as Mr. Brooks asked several questions, and
4 I was the one who conducted the cross-examination,
5 and I intend to ask her with respect to several new
6 statements that appeared during the redirect examina-
7 tion.

8 MR. COMYNS CARR: Your Honor, this is en-
9 tirely irregular. In my submission there is no such
10 procedure as my friend has referred to. I introduced
11 nothing in re-examination which did not arise
12 directly out of the cross-examination.

13 THE PRESIDENT: That is the view of the
14 Court.

15 MR. LOGAN: If the Tribunal please, there
16 are two points. One is the statement by Mr. Carr
17 that this witness saw all the volumes. That is some-
18 thing new. And the second point is this: that in
19 my practice where a witness leaves the stand and
20 comes back the next morning and changes her story,
21 we have a right to examine her and find out why it
22 was changed.

23 THE PRESIDENT: She made a statement the
24 purport of which was not clear to some Members of the
25 Tribunal. She was re-examined to clear it up. That

does not mean that new matter has been introduced.

1 The Tribunal refuses your application to
2 further cross-examine the witness at this stage,
3 Mr. Logan.

4 MR. COMYNS CARR: Your Honor, I propose to
5 proceed with the presentation of the excerpts, having
6 made clear that they are taken from the volume called
7 "B," out of a series of volumes called "B," and that
8 the translation is not the original "CAP translation
9 as it stood but has been revised by us owing to
10 objections taken by the defense.

11 THE PRESIDENT: You do not require the
12 witness any further?
13

14 MR. COMYNS CARR: No, your Honor.

15 THE PRESIDENT: She is excused on the usual
16 terms, or until she may be recalled for further cross-
17 examination.

18 (Whereupon, the witness was
19 excused.)

20 MR. McMANUS: If the Court pleases.

21 THE PRESIDENT: Mr. McManus.

22 MR. McMANUS: Your Honor, just before the
23 witness is excused: Mr. Comyns Carr stated that he
24 had some documents that he intended to tender later.
25 I think we are all well aware of what document or

documents it or they might be. However, if he
1 intends to do that, rather than to take up the time
2 of the Court possibly the witness, maybe, might
3 remain in the witness box and the documents might
4 be tendered through her so that then she might be
5 cross-examined or questioned about such documents
6 which are intended to be tendered.

7 THE PRESIDENT: You are about to refer to
8 a statement by HARADA?

9 MR. COMYNS CARR: I am about to tender
10 excerpts from the diary itself, your Honor.

11 THE PRESIDENT: Is that prefatory statement
12 by HARADA part of what you are going to tender?

13 MR. COMYNS CARR: Yes, it is in the diary itself.

14 MR. LOGAN: If the Tribunal please, we
15 intend, of course, to object to various excerpts
16 offered, but we have a general objection to the
17 entire memoirs. May we offer that at this time?

18 THE PRESIDENT: I think this is the time
19 to take a general objection, yes.

20 Is there to be a simultaneous translation?

21 MR. LOGAN: Yes.

22 This is our submission in connection with
23 these memoirs -- it is not a diary.

24 That there is a cloud on the reliability
25

1 of the information contained in the various reports,
2 rumors, hearsay and gossip in the so-called HARADA
3 Memoirs is perhaps best demonstrated by the testimony
4 on direct and cross-examination of the witnesses
5 MURAYAMA, Tomiji and KONOYE, Yasuko. Before pre-
6 senting Dr. MURAYAMA the prosecution made a statement
7 on pages 37,441 through 37,444 of the record which
8 fails to point out where any of the accused or any
9 witnesses attacked the mentality of HARADA. There
10 can be no inference from this statement by the
11 prosecution that such a deduction might be drawn.
12 As stated by the prosecution the attack was on the
13 reliability of the document, It must therefore be
14 apparent that the prosecution itself recognized that
15 the HARADA Memoirs needed bolstering by a doctor's
16 affidavit as to HARADA's memory and mentality. This
17 we submit is an unheard of precedent where the prose-
18 cution itself created the issue of HARADA's memory
19 and mentality. I need not recite Dr. MURAYAMA's
20 testimony of yesterday as I am sure it is fresh in
21 the minds of the Tribunal and it detracted rather
22 than contributed to the reliability of HARADA's
23 Memoirs.
24

25 With regard to the testimony of Mrs. KONOYE,
the probative value of HARADA's Memoirs is perhaps

1 best demonstrated, in addition to her admission that
2 she had difficulty in transcribing her notes in trying
3 to discover what portion in a given sentence was the
4 subject, by only referring to the following question
5 which was addressed to Mrs. KONOYE and her answer,
6 appearing on page 37,486 of the record:

7 "Q And the way you wrote the entries, isn't
8 it true, Mrs. KONOYE, that it would be difficult for
9 one to determine whether Baron HARADA was referring
10 to present tense or past tense and it was difficult to
11 determine the predicate and the subject of the sen-
12 tences, and it was also difficult to tell who was
13 saying what?

14 "A There were many portions which were as you
15 have indicated."

16 The substance of her testimony is that the
17 HARADA Memoirs are the composite result of sketchy
18 notes written by HARADA in small pocket notebooks
19 setting forth names of people and subject matter of
20 the conversations -- dictation by HARADA from some of
21 these notes but mostly from memory after a lapse of
22 a considerable period of time -- a transcription of
23 the notes in which Mrs. KONOYE did the best she could
24 and wrote it the way she thought it should be written -
25 and editing of the transcription by Prince SAIONJI

1 who as shown in the Memoirs was not present at the
2 conversations HARADA had with other people, and in
3 view of what happened this morning there is a question
4 as to this, but it might be a revision of the document
5 by a writer employed by HARADA to make it grammatically
6 correct -- to decide what tense Baron HARADA was
7 referring to and who was speaking in the various
8 conversations (record page 37,485) and emphasizing
9 rhetoric at the expense of facts. Besides the words
10 being presented to this Tribunal for consideration
11 being third or fourth-hand, the memoirs are entirely
12 predicated upon hearsay, prejudice, gossip, opinion,
13 speculation, rumors, and conjecture, and if unreliable
14 at its source it emerges in its present form before
15 this Tribunal as highly unworthy of consideration at
16 all. This especially is true when one weighs the
17 heavy implications of its words against the life and
18 liberty of these accused who sit before you.
19
20
21
22
23
24
25

Further, Mrs. KONOYE stated on direct
1 examination that at times HARADA appeared distracted;
2 that he was thinking of something else; that there
3 were occasions when he became sleepy while he was
4 dictating to her or talking to someone else. In addi-
5 tion, we submit that before any conversations which
6 HARADA had with any other person are admitted in evidence
7 in this case, the prosecution should produce evidence
8 that Prince SAIONJI did not edit those particular
9 conversations.
10

11 The prosecution has had this document since
12 shortly after the war. With all the translators and
13 interpreters that the combined resources of eleven
14 nations could hire it is a poor excuse that the con-
15 tents of this diary could not have been presented on
16 the prosecution case. And we call on the prosecution
17 to explain why they withheld the introduction of the
18 105 excerpts which they propose to introduce from this
19 diary. The prosecution cannot claim that they were
20 not ready, because throughout this trial they have
21 insisted that they were ready to proceed.
22

23 We submit that the original small pocket
24 notebooks which HARADA kept are more important and of
25 more probative value and assistance to this Tribunal
than the unexplained and unexplainable editing by

1 Prince SAIONJI. These pocket notebooks are the best
2 evidence. They are the original evidence. Before
3 accepting any documents offered we respectfully submit
4 that the Tribunal should call on the prosecution to
5 produce these original notebooks and offer them in
6 evidence. Certainly human experience dictates the
7 impossibility of the accuracy of reporting in quotation
8 marks conversations which occurred on important sub-
9 jects three weeks more or less after the conversations
10 were had, particularly when many conversations were
11 held during that period of time.

12 In addition, many instances are found where
13 HARADA, who was not in the cabinet, Privy Council,
14 nor in the military, is reporting second- and third-
15 hand hearsay of what took place at meetings of these
16 bodies. Certainly none of this can have any importance
17 at this stage of the trial. Many witnesses as well as
18 some of the accused who were confronted with statements
19 which appear in HARADA's diary have denied the accuracy
20 of those statements. Some have commented on the strong
21 language employed by HARADA. The prosecution has not
22 produced one single witness so far, and we ask that
23 this be done, who will verify the accuracy of the
24 information contained in these memoirs and as set forth
25 by HARADA.

1 At this stage of the proceeding, such evi-
2 dence as HARADA's diary has no importance -- importance
3 now, to me, legally, can only be interpreted as mean-
4 ing original evidence, not unreliable second- or third-
5 hand evidence as it set forth in these memoirs. The
6 prosecution has listed excerpts which were never pre-
7 sented to any witness or accused against whom they are
8 presumably offered. We submit that the Tribunal
9 should not be a party to any attempt on the part of
10 the prosecution to deprive the accused of a fair trial
11 by the introduction of such hearsay, third-hand infor-
12 mation of a "peddler of information," as one of the
13 accused characterized HARADA. That statement has not
14 been contradicted by the prosecution as yet and it was
15 brought out by the prosecution in cross-examination.

16 As pointed out by the resourceful prosecution
17 on page 37,442 of the record, the translation of the
18 HARADA diary as transcribed by Mrs. KONOYE, edited
19 by Prince SAIONJI and perhaps revised by SATOMI, pre-
20 pared by the Civil Intelligence Section of SCAP, has
21 been scrapped and the prosecution has prepared its own
22 translation, record page 37,442 and two statements by
23 the prosecution this morning. Mrs. KONOYE, herself,
24 admitting the difficulties involved in comprehending
25 the Japanese as used by HARADA, had to speculate --

1 which means pure guessing -- as to his meaning on many
2 occasions, as she testified. Attention is called to
3 her testimony appearing on page 37,487 of the record:

4 "A When I was transcribing my notes, I had
5 great difficulty in trying to discover just what portion
6 in a given sentence was the subject.

7 "Q And I suppose you did the best you could
8 and wrote it out the way you thought it should be, is
9 that right?

10 "A Naturally, yes."

11 Is this not a forecast of the complete unre-
12 liability and unworthiness of such evidence, clearly
13 revealing to the Tribunal that it should be rejected
14 in its entirety in considering the fateful issues
15 before it for judgment. If a Japanese could not under-
16 stand it, I do not see how any translator could.

17 The prosecution has stated its purpose in
18 offering these choice excerpts as being for the purpose
19 of contradicting witnesses who "have made statements
20 under cross-examination or in their direct evidence
21 which are in whole or in part contrary to entries in
22 those volumes," page 37,442 of the record. These
23 vigorously-disputed excerpts can have no importance or
24 probative value for such a purpose. In addition, the
25 Tribunal has intimated, although the prosecution has

1 failed to concur, that we are now engaged in a reopening
2 of the prosecution's case. If that be true, then these
3 documents have no place in such a phase. The usual
4 ground for the reopening of a case is founded upon a
5 discovery of new evidence which with reasonable dili-
6 gence could not have been discovered during the presen-
7 tation of the prosecution case. Whether we accept the
8 Tribunal's interpretation that this is a reopening
9 of the prosecution's case, or if we accept the prosecu-
10 tion's interpretation that this is rebuttal evidence,
11 it is not acceptable in either case because it is
12 neither new evidence nor effective in impugning the
13 credibility of any witness. This is no such evidence,
14 and with men's lives at stake it is respectfully
15 submitted that such flimsy and unreliable evidence be
16 rejected in toto.

17 In view of the prosecution's statement on
18 page 37,442 of the record, it would be a farce for
19 the Tribunal to accept any of this evidence for the
20 purpose of impeachment, which is the expressed purpose
21 declared by the prosecution. The prosecution stated
22 at that page: "For this reason we have had the
23 translation of all the excerpts which we are using
24 revised and in every case the excerpt which will be
25 tendered now is in revised translation."

Thus, upon its own admission the excerpts
1 offered are different from those presented to any
2 witness. I made strenuous objection, record pages
3 31,436 to 31,440, to the prosecution's reading the
4 English from SCAP's translation and having our court
5 interpreters translate that English to the witness into
6 Japanese, and I suggested at that time that the Japanese
7 from the original documents should be read by the
8 translators. This method was not followed. So the
9 result is that the prosecution is now offering, on
10 its own statement, a different version than that which
11 was submitted to any of the witnesses.
12

13 In the deep pit that has been dug into the
14 recognized Anglo-American rules of adjective law by
15 the admission of various types of questionable evidence,
16 there must be established a minimum limitation. While
17 the substantive rulings will occupy the paramount
18 position of importance, this Tribunal must also
19 recognize that the rules by which the evidence itself
20 is admitted will incur the critical eye of future
21 scholars and critics of international jurisprudence.
22

23 THE PRESIDENT: We will adjourn until half-
24 past one.
25

(Whereupon, at 1200, a recess was
taken.)

AFTERNOON SESSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: I do not think any Member of the Tribunal wishes to hear you, Mr. Carr. Certain points raised by Mr. Logan can be elucidated when particular documents are being tendered.

MR. COMYNS CARR: Yes, your Honor.

THE PRESIDENT: Mr. Logan's general objection is overruled.

MR. COMYNS CARR: There were two or three errors of fact in my friend's statement which I would rather like the opportunity of correcting, if I might be permitted.

THE PRESIDENT: Well, it will only lead to further discussion perhaps.

MR. COMYNS CARR: Yes, your Honor.

Then, for the purposes of the record, I understand from your clerk that the procedure I adopted yesterday of asking for an identification number for the whole of the diary is inconvenient in view of the fact that the whole of it is not in court. I would

1 ask the Tribunal to cancel that marking and to have
2 each volume from which I shall be presenting quotations
3 separately marked for identification.

4 THE PRESIDENT: That course will be followed.

5 MR. COMYNS CARR: If your Honor please.

6 Then I offer in evidence IPS document No.
7 3150-378-B, which is one of the last entries, for the
8 purpose of explaining exactly the manner in which
9 these records were compiled and the custody to which
10 they were entrusted in October, 1940. This makes it
11 clear in our submission that these records while not
12 absolutely made from day to day were made at very
13 short intervals and corrected by Prince SAIONJI. The
14 pages shown on all these excerpts are those in the
15 SCAP translation, which will enable anybody to look
16 at the context.

17 MR. FURNESS: If the Court please.

18 THE PRESIDENT: Major Furness.

19 MR. FURNESS: May I inquire from the prosecution
20 what these diagonal marks mean? This particular
21 document seems rather overloaded with them.

22 MR. COMYNS CARR: The words between the
23 diagonal marks, or sometimes they are printed as
24 bracket marks, are not in the manuscript but are
25 translators' notes. There are one or two cases where

1 such markings have been put in copies in error to
2 which I shall call attention.

3 MR. FURNESS: If the Court please, the
4 defense objects to the admission of this document
5 because it is, I should say, at least half of
6 translators' notes. There are so many and so long
7 that it is very difficult to tell what is the text
8 and what is Baron HARADA's so-called record and what
9 is the translator testifying.

10 THE PRESIDENT: We will have no difficulty in
11 distinguishing.

12 MR. FURNESS: Well, we object to it upon that
13 ground because it has no probative value and
14 if it is admitted, we will ask that it be referred
15 to the Language Section to check just what is said
16 here.

17 Its only importance is that it apparently
18 shows that the prosecution knows or should know
19 where the original is.

20 MR. COMYNS CARR: Your Honor, in my view most
21 of the translators' notes are unnecessary and merely
22 make plain what is obvious without them.

23 "Chapter 378

24 "(20 October 1940) pages 2974-7."

25 I omit the title which is not part of the

document.

1 THE PRESIDENT: The objection is overruled
2 and the document admitted on the usual terms.

3 MR. WARREN: Your Honor, in reading this
4 manuscript we would like to ask that the translators'
5 notes be not read.

6 THE PRESIDENT: Read the document.

7 CLERK OF THE COURT: Correction as to exhibit
8 No. 3751, marked yesterday for identification. This
9 exhibit number applies only to prosecution No. 3150-378,
10 being the photostatic copy of the original SAIONJI-
11 HARADA Memoirs. And the excerpt therefrom, just
12 admitted, bearing the number 3150-378-B, will receive
13 exhibit No. 3751-A.

14 (Whereupon, prosecution document No.
15 3150-378-B was marked exhibit No. 3751-A and
16 received in evidence.)

17 THE PRESIDENT: The transcript of the document
18 must show the diagonal strokes.

19 MR. BROOKS: The number just announced, and
20 the title given to this as described by the Clerk, might
21 be misleading if your Honors recall our contention
22 previously as to what is meant by the original document.
23 I just want that to show on the record. I think that it
24 is enough just to call it to the Court's attention.
25

1 THE PRESIDENT: The IPS number and the
2 exhibit number are both different from the earlier
3 document.

4 CLERK OF THE COURT: No, sir, the first
5 number, 3150, applied to the entire memoirs and the
6 number 378 only applies to a chapter.

7 THE PRESIDENT: The IPS dash number of this
8 particular document is 3150-378-B. It has not been
9 given before. The exhibit number is 3751-A and
10 that has not been given before.

11 Read the document, Mr. Carr, please.

12 MR. COMYNS CARR: (Reading)

13 "On that same day, I went to Okitsu and
14 reported /to Prince SAIONJI/ on the latest happenings
15 since I last saw him. I consulted the Prince about
16 requesting Prince TAKAMATSU to keep the transcriptions/
17 manuscript of the SAIONJI-HARADA Memoirs/ in the care
18 of his Highness until they were delivered into the
19 hands of the Emperor. Prince SAIONJI agreed to this
20 and said: 'If his Highness /Prince TAKAMATSU/ doesn't
21 mind, I believe that would be a very splendid arrange-
22 ment.'

23 "On the 19th, I returned to my home in Oiso.
24 On the morning of the 20th, because /I learned that/
25 His Highness /Prince TAKAMATSU, a Navy officer/ had

1 returned to his palace from his ship, I called him
2 on the telephone and talked with His Highness
3 personally over the phone. His Highness said: 'Come
4 at 4:00 o'clock in the afternoon.' I went to the
5 Takanawa Palace /of Prince TAKAMATSU at the appointed
6 time/ I told His Highness: 'This record /manuscript
7 of the SAIONJI-HARADA Memoirs/ was started in 1929.
8 The following is the reason why this was undertaken:
9 At the time of the London Treaty /when it was a major
10 political issue/ only false rumors about the issue
11 prevailed; and the truth about the matter was never
12 known /to the public/. Especially, the attitude taken
13 by the Emperor has been, for the most part, falsely
14 rumored. However, the counsel given to the Throne and
15 actions taken by the Genro /Prince SAIONJI/, court
16 officials close to the Emperor, and the Cabinet
17 Ministers on the whole, have been falsely rumored.
18 As a direct result, this created serious perturbations
19 in the political circles; and this was the direct
20 cause of subsequent disturbances in the Army and Navy.
21 The virtues and intelligent perspicacity of the Emperor
22 were perverted almost beyond imagination by propaganda.
23 I felt that this was an exceedingly regrettable fact.
24 Since I /HARADA/ knew, in my capacity /as Prince
25 SAIONJI's secretary/ the truth of the matter, I felt

1 that there was a necessity for recording this in
2 written form for posterity. Therefore, I consulted
3 KONOYE, we decided to seek the assistance of
4 /Viscountess KONOYE, Yasuko/ the wife of /Viscount
5 KONOYE/ Hidemaro, the younger brother of Prince
6 KONOYE, and have her take it down /as I dictate it/
7 and thus preserve it for posterity. It has now
8 grown to 10,000 odd pages.
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 "This is the way in which these memoirs are
2 being made. Every week, I go to see Prince SAIONJI and
3 make a report to him; my memorandum for this report is
4 used as the basic material and I have it taken down and
5 kept. I then take the transcribed manuscript of the
6 notes to SAIONJI; he reads the material personally,
7 corrects mistakes, and adds whatever additional notes
8 he deems necessary to the manuscript. He returns it to
9 me the next time I go to see him. A clean copy of this
10 is made; this is then edited and filed away.

11 "Nowadays, this /the fact the SAIONJI-HARADA
12 Memoirs is being compiled/ has occasionally appeared
13 in the newspapers; moreover, even the fact that this
14 /manuscript of the SAIONJI-HARADA Memoirs/ is deposited
15 for protective custody in the Sumitomo Trust Company has
16 become known to the public. I have heard there is
17 danger that a faction of the rightists might, under
18 certain circumstances, destroy it /manuscript of the
19 SAIONJI-HARADA Memoirs/. Therefore, I have consulted
20 Prince SAIONJI about this matter and have decided to re-
21 quest Your Highness to keep it in Your Highness' personal
22 custody until it is completed. When it is completed,
23 the original manuscript which has Prince SAIONJI's
24 corrections and revisions on it will be presented to the
25 Emperor in its original form. The edited copy will be

1 printed and published at a suitable occasion. I think
2 it won't be possible, in all probability, to publish the
3 document until after 10 or 15 years have elapsed from
4 the death of Prince SAIONJI. At any rate, the future
5 custody of it is entrusted to MATSUDAIRA, the Chief
6 Secretary to the Lord Privy Seal. I would like to have
7 Your Highness consult MATSUDAIRA and make thorough
8 arrangements so that he will be able to keep in close
9 touch with Your Highness' steward /for preserving the
10 manuscript in Your Highness' custody/.

11 "His Highness /Prince TAKAMATSU/ said: 'I
12 gladly give consent. I shall give thorough instruction
13 about the matter to YAMANOUCHI, the steward, to make
14 suitable arrangements (in regards to the manuscript)
15 with him.' I thanked His Highness for this and changed
16 the topic of our discussion."

17 I now offer in evidence IPS document No.
18 3150-2-A in rebuttal of (1) ARAKI's denial that he and
19 HARADA were very close friends or acquaintances, page
20 28,331, first answer, (2) his statement that the
21 Kokuhonsha had no political significance or meaning wha
22 soever, page 28,332, fourth answer, and (3) his refusa
23 to admit that he was an idolizer of HIRANUMA, page
24 28,332, third answer.

25 MR. McMANUS: If the Court pleases, I believe

1 the Court will recall that when Mr. Carr suggested that
2 he might attempt to offer this HARADA Diary into evi-
3 dence, I objected.

4 THE PRESIDENT: On behalf of ARAKI for whom
5 you now appear.

6 MR. McMANUS: Yes. At that time the Court ad-
7 monished me for making such an objection in anticipation
8 of what might happen. Now that a concrete document is
9 being offered, I object to it. I should like to state
10 my reasons, but before doing so, I should like to also
11 remind the Court that I objected to this HARADA-SAIONJI
12 Diary in toto because it contained opinions, conclusions,
13 thoughts, operations of the mind of someone, and after,
14 particularly, the cross-examination that has happened
15 here in the past day or so, that was the basis origin-
16 ally for my objection to the entire document as a whole

17 However, I shall deal with each individual
18 document as they are presented.

19 Concerning this particular document, might I
20 invite the Tribunal's attention to the dashes before the
21 beginning on line 1? Might I also invite the Tribunal's
22 attention to: a newspaper man once told me or "I heard
23 from him"? Need I invite the attention of the Tribunal
24 to anything such as that?
25

THE PRESIDENT: No. It is the next two

sentences that matters.

1 MR. McMANUS: If your Honor pleases, I am
2 objecting to the entire document. I call the Tribunal's
3 attention to the fact that HARADA says, "from a certain
4 point of view," and then he says, "I think." Well,
5 the entire thing is incomplete. There is nothing
6 there except what the prosecutor wants to put in. It
7 is not even an opinion. It is not even a conclusion.
8 The man thinks. It is an operation of the man's mind
9 and at that a dead man's mind, not a living man's mind.

10 The contents of the document, if the Tribunal
11 pleases, are purely conjectural on the part of anyone
12 who might have written it, and if it suits the prose-
13 cution's purpose to put it in, where is the original?
14 How do we know this happened?

15 I further object on the ground that it is an
16 excerpt and, as I have stated on many occasions before,
17 anyone could make, if the Tribunal pleases, Lincoln's
18 Gettysburg Address look like a ransom note if you put
19 the excerpts all together. I object to the document.

20 THE PRESIDENT: The defense has tendered many
21 excerpts, rightly so. Do not indulge in generalities
22 if you can avoid it, Mr. McManus.

23 MR. McMANUS: Well, I object to this document,
24 if the Tribunal pleases, on the ground that it is
25

1 incomplete and that it calls for an operation of a man's
2 mind, and --

3 THE PRESIDENT: Well, you have made that.

4 MR. McMANUS: Yes. I object to the document,
5 Mr. President.

6 THE PRESIDENT: Has this excerpt been revised
7 since ARAKI was shown it?
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

K
a
p
l
e
a
u
&
K
n
a
p
p
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. COMYN: CARR: No, your Honor. He wasn't shown it, your Honor, but it hasn't been revised since questions were based upon it.

With regard to its being shown, your Honor, immediately before introducing this excerpt I offered to produce, either to the Court or to the defense, the whole of the excerpts that I was going to use, as I used them. The Tribunal ruled that they would not see them until they were tendered in evidence in rebuttal, and the defense did not ask to see them.

MR. McMANUS: If the Tribunal pleases, I should have been only too happy to see any documents containing such excerpts as these. Furthermore, I should also think that maybe the Court might like to see the original, also.

May I ask the Tribunal to distinguish the difference between something such as this and a newspaper article?

THE PRESIDENT: The objection is overruled and the document admitted on the usual terms.

MR. WARREN: Your Honor, I represent HIRANUMA and I haven't had a chance to say a word, and the objection is overruled before I have had an opportunity to say a word.

THE PRESIDENT: You don't treat the Court with

1 proper respect. You sit at the table, there is a
2 pause, there is no appearance of anybody coming to
3 object, a decision is given, and then you say you
4 weren't heard. That is not right.

5 MR. WARREN: I must respectfully disagree with
6 the Tribunal. I came up here, had this in my hand,
7 and the President of the Tribunal asked a question,
8 and this lectern is pretty crowded; the prosecutor
9 never sits down while we are up here. So I went back
10 and sat down like a gentleman. And I do want to make
11 an objection.

12 THE PRESIDENT: The document is admitted against
13 ARAKI in any event. We have heard him. We will hear
14 you now, on HIRANUMA.

15 MR. WARREN: Thank you, sir. What I should
16 like to say about this document --

17 THE PRESIDENT: I am reminded that you prompted
18 Mr. McManus.

19 MR. WARREN: Yes, I probably did. I said
20 "Stick by your guns, Mr. McManus; don't let the
21 prosecutor push you away from the lectern any further."

22 MR. McMANUS: If the Court pleases, I didn't
23 need any prompting.

24 THE PRESIDENT: So you came to the lectern in
25 the first place to prompt him and not to make an

objection.

1 Proceed with the objection.

2 MR. WARREN: This is nothing but an opinion
3 where it concerns HIRANUMA. It is based upon something
4 not before the Tribunal. We don't know what it is,
5 but it looks like HARADA didn't like HIRANUMA. He
6 states he was intimate with ARAKI but that in effect
7 ARAKI was an idolizer of HIRANUMA and therefore ARAKI
8 was an unfit person to sit close to the Throne.
9

10 So, it amounts to nothing but opinion evidence
11 of the character of HIRANUMA, and I submit to this
12 Tribunal that I have brought before this Tribunal in
13 the HIRANUMA case an affidavit of two men whose word
14 could hardly be questioned, even by this Tribunal.
15 That was General Pigett and ex-Ambassador Grew. And
16 I say if the Tribunal accepts this document, they are
17 accepting character testimony as to the bad character
18 of HIRANUMA by a man who apparently didn't like him,
19 and rejected the best character evidence that this
20 Tribunal could possibly get.

21 MR. LOGAN: In view of the fact that this is a
22 conspiracy charge, if the Tribunal please, I assume I
23 have a right to object on behalf of KIDO.

24 THE PRESIDENT: Well, Mr. Logan, we would like
25 you to cooperate with the Tribunal to the full extent,

that is, to avoid a number of counsel taking objections.

1 MR. LOGAN: We are trying to do that, if the
2 Tribunal please. I just wanted to make this general
3 observation, that when we endeavored to obtain
4 character evidence, I recall one examination when the
5 German Ambassador was on the stand here; we asked him
6 questions as to the character of one of the accused
7 and we were restricted to conversations that he may
8 have had with the accused. Now, if this document is
9 admitted, it is going contrary to that decision.
10

11 I also wish to point out that if this is re-
12 butta evidence, there is nothing that has been pre-
13 sented by my friend here that this document was ever
14 shown to any witness or accused, and if it is new
15 evidence, on a reopened case, there is no grounds
16 stated why it should be admitted.

17 THE PRESIDENT: The objection is overruled and
18 the document admitted on the usual terms.

19 CLERK OF THE COURT: Prosecution document No.
20 No. 3150-2 will receive exhibit No. 3754 for identifica-
21 tion only, and the excerpt therefrom, being prosecution
22 document No. 3150-2A, will receive exhibit No. 3754-A.

23 (Whereupon, prosecution document No.
24 3150-2 was marked prosecution exhibit No.

25 3754 for identification; prosecution document

1 No. 3150-2A was marked prosecution exhibit
2 No. 3754-A and received in evidence.)

3 MR. COMYNS CARR (reading): ". . . On the
4 night of the 13th, a newspaperman came to my place
5 and I heard from him that the commander of the Sixth
6 Division, Lt. Gen. Sadao ARAKI, was to be the Chief
7 Aide-de-Camp to the Emperor. I was very intimate with
8 Lt. Gen. ARAKI but he was an idolizer of Baron
9 HIRANUMA and a prominent figure in the so-called
10 KOKUHONSHA. Therefore, to have such a person serving
11 so close to the Emperor is a serious matter from a
12 certain point of view and I think it very dangerous. . ."

13 I offer in evidence IPS document No. 3150-2B,
14 to rebut KOISO's testimony that the purpose of the
15 Kokuhonsha Society was to support a proper and true
16 understanding of the nature and spirit of Japan and
17 its members, and to prove that this society was an in-
18 strument used by HIRANUMA for personal political pur-
19 poses. The reference is transcript pages 32,274-75.
20
21
22
23
24
25

THE PRESIDENT: Captain Brooks.

1 MR. BROOKS: On behalf of the accused KOISO
2 I wish to object to this document as having no proba-
3 tive value and being unimportant. I wish to object
4 further that it is not the best evidence, as it is not
5 a translation from the original before it was offered.
6 This is apparent from a previous exhibit, 3751-A,
7 on the back page thereof.

8 Paragraph 1 of the prosecution's own exhibit
9 reads that the manuscript was taken of notes to SAIONJI.
10 He read the material personally, corrected mistakes,
11 and added whatever additional notes he deemed necessary
12 to the manuscript. "He returns it to me the next time
13 I go to see him. Then a clean copy of this is made.
14 This is then edited again and filed away."

15 THE PRESIDENT: We have already decided that.
16 Why bring it up again?
17

18 MR. BROOKS: This latter clean copy with the
19 edited notes is what the Tribunal has before it, which
20 is third-hand, and I say is not the best evidence.
21 The prosecution has not made an attempt to bring in
22 the original unaltered notes of HARADA, who had personal
23 knowledge in some instances. That is why I had
24 suggested to the prosecution that they steer away
25 from this evidence for the time being, since they

1 have several other lists of documents not involving
2 these memoirs, and allow us to give them a little time
3 to produce the originals and save ultimately an enor-
mous amount of time before this Tribunal.

4 THE PRESIDENT: All that has been taken into
5 account.

6 MR. BROOKS: Yes. If the original is pro-
7 duced, your Honors of course will realize, and a
8 hundred and some odd of these documents are admitted,
9 even over objection, and that original does what I
10 think it will do, it will have been a horrible waste
11 of time.

12 THE PRESIDENT: Colonel Warren.

13 MR. WARREN: If the Tribunal please, here is
14 another document that the prosecution is attempting to
15 bring in that they should have brought in in their
16 case in chief.

17 THE PRESIDENT: Well, that no longer matters,
18 Colonel Warren.

19 MR. WARREN: Not to your Honor, but to me it
20 does.

21 THE PRESIDENT: Oh, no, you are not going to
22 get away with that. A decision of this Court allows
23 such material to be given.

24 MR. WARREN: In any event, not one word was
25

1 said in their case in chief on KOKUHONSHA or the
2 remarks made by counsel with reference to HIRANUMA.
3 Now they are coming in and attempting to impeach another
4 witness, to bring in testimony that ordinarily they
5 could never bring in, and they are doing it by innuendo.

6 Now, the only place that they mentioned that
7 was on cross-examination of another witness. At that
8 time we had a right to expect that if this evidence was
9 introduced at this time it would be rebuttal evidence
10 and we would have met it in our case in chief, and I
11 charge the prosecution with knowing that we would have
12 done it at the time. But we were denied that right.

13 THE PRESIDENT: You may not intend it, Colonel
14 Warren, but you are really debating a decision already
15 given. The test is: Has it probative value? Is it
16 important? I made that plain two or three days ago.

17 MR. WARREN: Well, your Honor, may I do this,
18 then? May I request that the prosecution be required
19 to get up here and introduce this on its probative
20 value and not as rebuttal evidence? That is what they
21 have done every time, and so we have to meet it, fire
22 with fire. We will accept that ruling, but the prosecu-
23 tion refuses to do it and still bring it in in an
24 attempt to try my client on what they characterize as
25 rebuttal evidence.

1 But I won't pursue that any further. I do
2 wish to point out that the very dictum from this so-
3 called extract itself shows that HARADA, or whoever
4 wrote it -- and I don't know who wrote it -- but that
5 HARADA himself only thought things about HIRANUMA,
6 because he goes ahead, and after the mechanisms of his
7 own mind, which you can naturally follow through, says
8 "even the army thinks ... " How in the world can he
9 know what the army thinks unless he talked with every
10 man in the army? It is ridiculous.

11 Then he makes a reflection in here to the
12 effect -- you might think he got it from this -- about
13 an army list in secret that he looked at. Well, we
14 were required to produce the documents that we referred
15 to in our evidence, but where is this army list in
16 secret? I submit, if everything in here is considered
17 as having been the truth, it is of no importance. But
18 we will be required to answer it with evidence, because
19 if the Tribunal takes it we have to assume it thinks
20 it is important -- we will be required to answer it,
21 first with evidence and then later on we are going to
22 have to comment on it in our summation, and it is going
23 to take a lot of time, and we don't want to have to
24 take that time to meet it unless it is necessary.
25

MR. McMANUS: If the Tribunal pleases, I would

1 like to renew my objection, or offer an objection to
2 this particular document, on the general grounds that
3 I have objected to the entire Baron HARADA and SAIONJI
4 Diary. However, as far as this particular document is
5 concerned, it is also incomplete. Who is Colonel INOUE?
6 And after a secret glance at an army list, as stated
7 in the first sentence, how can the writer make any
8 deductions? This is strictly a supposition, a conclu-
9 sion, and a conjecture by the writer.

10 I object to the document.
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

G
r
e
e
n
b
e
r
g
&
Y
e
l
d
e
n

1 THE PRESIDENT: By a majority, the objections
2 are overruled and the document admitted on the usual
3 terms.

4 CLERK OF THE COURT: Prosecution document
5 3150-2B will receive exhibit No. 3754-B.

6 (Whereupon, the document above
7 referred to was marked prosecution exhibit
8 No. 3754-B and received in evidence.)

9 MR. COMYNS CARR: (Reading)

10 "16 July 1931.

11 "Thereupon, I went to the War Ministry and
12 Met Col. INOUE, and looked at the Army List in secret.
13 As it is today, even the Army thinks that Lt. Gen.
14 ARAKI is a follower of HIRANUMA. The Army says
15 that Lt. General Senjuro HAYASHI, Commander of the
16 Chosen Army, is the most suitable man for the posi-
17 tion. If not he, then Lt. Gen. KAWASHIMA, the Com-
18 mander of the division at Nagoya. At the present
19 time, there are no others. After my return home I
20 went so far as to call the Imperial Household
21 Minister on the phone and told him about this.

22 "By these indications, even in the matter of
23 disarmament, it is clear that the extreme rightist
24 KOKUHONSHA is maneuvering in concert with the Army.
25 That these problems arise, both directly and indirectly

is, I think, a very disconcerting matter."

1 I now offer in evidence IPS document No.
2 3157-8A, relating to August 23, 1931 and a conversa-
3 tion between MINAMI and Railway Minister EGI, which
4 MINAMI, at page 19,825-6, said he did not remember
5 at all.

6 MR. BROOKS: I wish to object, your Honors
7 please, to this document on the same grounds as I
8 had to the other objection and to an additional
9 ground that in the contents of the document itself,
10 this is secondary evidence. There is no showing, as
11 we have been required to do for a witness' name, as
12 to whether EGI is dead or not. I think that if the
13 Railway Minister EGI is alive he should be brought
14 before the Court so that we have the right to cross-
15 examine.
16

17 THE PRESIDENT: So far we have not prevented
18 the defense from calling him.

19 MR. BROOKS: I think that the burden should
20 be on the prosecution first to show that the man whom
21 they are talking about is either dead or not obtain-
22 able to bring before this Tribunal and have the wit-
23 ness before they should be allowed to bring in second-
24 ary evidence. I state that this is an additional
25 objection, and in my submission the document should

1 not be received until the usual rules are complied
2 with. Furthermore, this document was not shown to
3 MINAMI, as I have been able to ascertain, and I would
4 like, if it is admitted, to reserve the right to pro-
5 duce EGI in rebuttal and to recall MINAMI to the
6 stand if I deem it necessary.

7 THE PRESIDENT: By a majority, the objection
8 is overruled and the document admitted on the usual
9 terms.

10 CLERK OF THE COURT: Prosecution document
11 No. 3150-8 will receive exhibit No. 3755 for identi-
12 fication only; and the excerpt therefrom, being
13 prosecution document 3150-8A, will receive exhibit
14 No. 3755-A.

15 (Whereupon, document 3150-8 was
16 marked prosecution exhibit 3755 for identi-
17 fication; and the excerpt therefrom, 3155-8A,
18 was marked prosecution exhibit No. 3755-A
19 and received in evidence.)

20 MR. COMYNS CARR: (Reading)

21 "August 23, 1931.

22 "/KONOYE SPEAKING/ Later, the Chief of the
23 Asia Bureau said: 'The Army is attempting to use the
24 killing of Captain NAKAMURA in Mongolia as a tool for
25 the solution of the Manchuria-Mongolian matter by

1 enlarging the importance of the incident. It is very
2 troublesome.'

3 "I (HARADA) returned to Hakone and met
4 Railway Minister EGI and mentioned these things to
5 him. He /EGI/ said: 'I did not know anything about
6 it but War Minister MINAMI came to Hakone yesterday
7 and told me all about it. At that time, I /EGI/
8 asked him: "The discipline of the Army today is very
9 confused. Just what does Your Excellency think about
10 the bomb incident of UGAKI? It is outrageous to speak
11 of such things as an expedition to Manchuria-Mongolia,
12 etc., because the troops are the Emperor's and it is
13 unthinkable to move them without an Imperial Order.
14 Just what is your opinion on this?" I, /EGI/ probed
15 here and there, but the Minister only made very ob-
16 scure replies on the matter of UGAKI. It is a very
17 troublesome thing.'"

18 We now offer in evidence IPS document No.
19 3150-30A, an excerpt relating to the 4th September,
20 1931. This contradicts MINAMI's statement at pages
21 19,826-7 denying the conversation with Finance
22 Minister INOUE therein set forth.

23 THE PRESIDENT: Captain Brooks.

24 MR. BROOKS: If the Tribunal please, we are
25 getting, of course, these references to the record,

1 and I have no opportunity to check them until after
2 it is too late, but I ask that the Court take the
3 page number given by the prosecution and study it
4 carefully and ascertain for themselves whether it
5 bears out his statement. I object to this as having
6 no probative value and not being important and as
7 being hearsay of the rankest form.

8 Furthermore, if these two, MINAMI and KOISO,
9 as mentioned in there, were criticizing each other,
10 it would certainly go to meet the prosecution's
11 allegations as to conspiracy. In fact, it may be
12 done officially, assuming, of course, that this docu-
13 ment would have probative value.

14 THE PRESIDENT: By a majority, the objections
15 are overruled and the document admitted on the usual
16 terms.

17 CLERK OF THE COURT: Prosecution document
18 3150-10 will receive exhibit No. 3756 for identifica-
19 tion only; and the excerpt therefrom, being prose-
20 cution document 3150-10A, will receive exhibit No.
21 3756-A.
22

23 (Whereupon, document 3150-10 was
24 marked prosecution exhibit No. 3756 for
25 identification; and the excerpt therefrom,
document 3150-10A, was marked prosecution

exhibit No. 3756-A and received in evidence.)

1 MR. COMYNS CARR: (Reading)

2 "4 September 1931.

3 "On September 4, I met the Finance Minister,
4 INOUE. He said: 'The War Minister, /MINAMI/ on the
5 whole, was in complete accord with me on the Army
6 reorganization plan, and the matter was agreed upon
7 between us before we parted. However, upon returning
8 to the War Ministry, he was severely criticised by the
9 Military Affairs Bureau Chief, KOISO, and the Intend-
10 ance Section Chief. Consequently, he returned to me
11 later and said: "I previously agreed with you upon
12 the matter, but I found it very difficult to appease
13 the members of the staff" For this reason, the
14 matter has reverted to its starting point."

15
16 I offer in evidence IPS document 3150-10B,
17 an excerpt from HARADA's Memoirs found at page 61
18 relating to the conference HARADA had in the evening
19 of September 12, 1931 with the Vice-Chief of the
20 General Staff NINOMIYA and others, and to the discussion
21 by then of HIRANUMA's proposal to sever diplomatic
22 relations with the Soviet Union, and of the connection
23 between the leading officers of the Army and the re-
24 actionary organization Kokuhon-sha headed by HIRANUMA.
25

The presentation of this document refutes

1 exhibit No. 3225 containing a description of HIRANUMA's
2 interview with a member of the American Embassy during
3 which HIRANUMA characterized himself as a proponent of
4 the so-called "moral diplomacy" and of the establish-
5 ment of "a stabilized peace to replace interludes of
6 preparation for the next war." (Record page 29,225).

7 THE PRESIDENT: Colonel Warren.

8 MR. WARREN: If the Tribunal please, now we
9 have gotten down to the point where we reach a document
10 that the prosecution has introduced which, if there is
11 anything to it at all, clearly invades the province
12 of the Tribunal. It starts out -- he isn't even
13 talking about what he thinks. He starts out and says,
14 "According to what Vice-Chief of the General Staff
15 said, I received the impression ..." and "Baron HIRA-
16 NUMA seems to be ..." A little further, "Moreover,
17 it seems that he ..." And then, upon what he thought
18 things appeared to him, he says, "I felt that this
19 indicated."
20

21 THE PRESIDENT: We will not hear you further,
22 Colonel Warren. By a majority, the objection is sus-
23 tained and the document rejected.

24 We will recess for fifteen minutes.

25 (Whereupon, at 1445, a recess was
taken until 1500, after which the proceed-
ings were resumed as follows:)

M
o
r
s
e
&
W
h
a
l
e
n

1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Comyns Carr.

4 MR. COMYNS CARR: We now offer in evidence
5 IPS document No. 3150-11A, an excerpt relating to 14
6 September 1931. At record pages 19,821-25, MINAMI
7 while admitting that TATEKAWA was sent to Mukden by
8 the General Staff and that he had talked with him before
9 he went, denied that he or as far as he knew, KOISO
10 had anything to do with his selection or that he en-
11 trusted TATEKAWA with a letter or order from the Emperor
12 or anybody else. He said he was merely sent to inves-
13 tigate.

14 THE PRESIDENT: Captain Brooks.

15 MR. BROOKS: I object, if your Honors please,
16 to -- I have no objection except to the second sentence
17 in the second paragraph as not showing from whom HARADA
18 obtained this information, that it is a mere allegation
19 or a matter of opinion. It starts with the words "In
20 short" and ends with the words "War Minister."

21 THE PRESIDENT: By a majority the objections
22 are overruled and the document admitted on the usual
23 terms.
24

25 CLERK OF THE COURT: Prosecution document
3150-11 will receive exhibit No. 3757 for identification

only; the excerpt therefrom, being prosecution document
1 3150-11A will receive exhibit No. 3757-A.

2 (Whereupon, the document above
3 referred to was marked prosecution exhibit
4 No. 3757 for identification, the excerpt
5 therefrom being marked prosecution exhibit
6 No. 3757-A and received in evidence.)

7 MR. COMYNS CARR: (Reading) "14 September 1931.

8 "On the 14th the War Minister returned from
9 Gotemba, and immediately had Major General TATEKAWA
10 deliver a confidential letter to the Commander in Chief
11 of the Kwantung Army. The content of the confidential
12 letter was about the warning the War Minister received
13 from His Majesty on the 11th regarding military disci-
14 pline, and also about the fact that he was told by His
15 Majesty to take extra precautions in regard to the
16 actions of the Army in Manchuria and Mongolia. The War
17 Minister transmitted the wishes of His Majesty to the
18 Commander-in-Chief of the Kwantung Army with the inten-
19 tion of bringing pressure upon him so as to have a stop
20 put to the various Army schemes in Manchuria and Mongolia

21 "The incident broke out on the night that
22 TATEKAWA arrived at Mukden with the confidential letter
23 from the War Minister. In short, it seems to me that
24 it was TATEKAWA's plan to have the scheme carried out
25

1 before the Commander-in-Chief of the Kwantung Army saw
2 the confidential letter from the War Minister. This
3 may be seen from the fact that although at the beginning
4 of the conference of the so-called War Councillors,
5 representing the Supreme leaders of the Army, the
6 attitude of the members was very firm. Thereafter,
7 the War Minister conveyed the wishes of His Majesty to
8 the members at the conference, the attitude of the
9 members changed completely. And they decided that the
10 present plans of the Army should be completely abandoned
11 by all means. This appears to have resulted in having
12 the War Minister's confidential letter conveyed to the
13 Commander-in-Chief of the Kwantung Army."

14 Next I offer in evidence IPS document No.
15 3150-11B relating to 19 September 1931 and particularly
16 to the dispatch of troops from Korea to Manchuria. At
17 pages 19,843-9 MINAMI was questioned about this and
18 while admitting some parts of it he maintained that he
19 had opposed the dispatch of those troops which this ex-
20cerpt contradicts. .

21 THE PRESIDENT: Captain Brooks.

22 MR. BROOKS: I wish to object to this on the
23 grounds that I have stated before and on the further
24 ground that it is not only against the best evidence
25 rule but that the prosecution's witnesses WAKATSUKI and

SHIDEHARA have both testified that MINAMI was never
opposed to the cabinet's policy at pages 1,564, 1,571,
1,583 and 1,384, and this would allow the prosecution
to impeach their own witness by secondary evidence.
And the Premier, WAKATSUKI, mentioned in here is still
alive and has been a witness in this case.

THE PRESIDENT: By a majority the objection
is overruled and the document admitted on the usual
terms.

CLERK OF THE COURT: Prosecution document
3150-11B will receive exhibit No. 3757-B.

(Whereupon, the document above
referred to was marked prosecution exhibit
No. 3757-B and received in evidence.)

MR. COMYNS CARR: (Reading) "19 September 1931.

"About supper time on the 19th, there was a
telephone call from the Premier, and he said: 'I want
you to come immediately.' Therefore, I went to the
official residence of the Premier after dinner. The
Premier appeared very troubled, and he said: 'No reports
have been delivered to me by the Foreign Ministry nor
the War Minister / T.N. regarding the Manchurian Incident.
However, I have told Chief Secretary KAWASAKI to caution
them about it. I am trying by various means to prevent
this incident from spreading, and if possible to settle

1 it. However, it seems that the Army authorities are
2 desirous of making a guarantee occupation. Guarantee
3 occupation is a matter to be decided by the government,
4 and the Army authorities have no power to make decisions
5 regarding such matters. The Chinese military forces
6 in Manchuria exceed 200,000, and at present, the strength
7 of the Japanese Army there is a little over 10,000.
8 I asked what they intended doing if, by acting too
9 outrageously in Manchuria, something should possibly
10 happen against such a huge opposing force, to which the
11 reply was: "We will send out troops from Korea. Pro-
12 bably troops already have been sent out from Korea."
13 Therefore I remarked, "Isn't it outrageous for the Army
14 to send out troops from Korea without the order from
15 the government?" However, there is a precedent, during
16 the TANAKA ministry troops were moved without Imperial
17 sanction"

18
19 Next I offer in evidence IPS document No.
20 3150-12A, a series of excerpts dealing with the same
21 matter and bringing it down to September 23rd. MINAMI
22 was questioned on this excerpt at pages 19,850-56,
23 particularly with regard to the question of withholding
24 the expenses for the dispatch of troops. He made some
25 admissions, but in general denied the statements in
this excerpt.

THE PRESIDENT: Captain Brooks.

1 MR. BROOKS: Objection is made, if your Honors
2 please, on the same grounds, that this is matter that
3 is not evidence that has sufficient probative value to
4 be received.

5 THE PRESIDENT: By a majority the objections
6 are overruled and the document admitted on the usual
7 terms.

8 CLERK OF THE COURT: Prosecution document
9 3150-12 will receive exhibit No. 3758 for identification
10 only; the excerpt therefrom, being prosecution document
11 3150-12A will receive exhibit No. 3758-A.

12 (Whereupon, the document above re-
13 ferred to was marked prosecution exhibit No.
14 3758 for identification, the excerpt there-
15 from being marked prosecution exhibit No.
16 3758-A and received in evidence.)

17 MR. COMYNS CARR: (Reading) "22-3 September,
18 1931.

19 ". . . On the 22nd the Premier went to the
20 Imperial Palace, and reported to the Emperor on the
21 progress of the Cabinet meeting, the substance of which
22 was as follows: To cause an absolute cessation on
23 establishing military administrations, and on seiz-
24 ing customs offices and seizing banks, and the like,
25

and to forbid all actions excepting those to prevent
1 risks. The War Minister made a proposal to send the
2 Korea Army to Manchuria. The reason that the War
3 Minister expressed such a desire was that he had been
4 notified by the Chief of the General Staff that the
5 Commander in Chief of the Kwantung Army had made the
6 demand to the Chief of the General Staff on the ground
7 of the shortage of strength in Manchuria. The Cabinet
8 did not approve the proposal in its meeting because
9 the matter might be taken up by the League of Nations,
10 and also because upon the withdrawal of the Manchurian
11 Army there would be difficulty. 'I (Premier) severely
12 rebuked the War Minister for sending out troops as far
13 as Kirin and Changchun. . . .'

15 "Later on, the War Minister again consulted
16 with the Chief of the General Staff about dispatching
17 the Korea Army, and decided to bring up the matter in
18 the Cabinet meeting of today (the 22nd). Later on,
19 however, the War Minister told the Premier: 'The
20 Commander-in-Chief of the Korea Army decided that the
21 situation was urgent and already has dispatched one
22 brigade.'
23
24
25

1 ". . .The War Minister was very anxious to
2 have the dispatching of the Korea Army approved at
3 the Cabinet meeting . . .

4 "At 9:30 a.m. the following morning, the 23d,
5 His Majesty summoned Premier WAKATSUKI. And then, at
6 the Cabinet meeting that day it was decided that the
7 troops having been dispatched anyway, the government
8 should defray the expenses, though the Finance Minis-
9 ter was not actually admitting that the dispatch of
10 troops had been carried out duly in accordance with a
11 Cabinet decision. /It was decided/ at the Cabinet
12 meeting that in view of the fact that the Chief of the
13 General Staff had received a report from the War Min-
14 istry that the troops had been dispatched arbitrarily
15 and considering the dispatch had been done, that is,
16 the thing having been done, the government should
17 defray the expenses without raising any objection.
18 Being asked to report exactly what had happened to
19 the Throne, the Premier was compelled to report ex-
20 actly what had happened to His Majesty and after that
21 the War Minister and the Chief of the General Staff
22 presented themselves. And thus, the dispatch of troops
23 which had been decided and carried out arbitrarily
24 had been submitted for Imperial ex post facto approval.
25

"During the Cabinet meeting of the same day,

1 the words of His Majesty were conveyed to the Cabinet
2 members: 'I believe that the policy that has been
3 decided by the government of the so-called non-expansion
4 of the Incident is very appropriate. Therefore, en-
5 deavour to carry it out completely.'"

6 I now offer in evidence IPS document No.
7 3150-13A. This was concerned mainly with a report
8 by MORISHIMA, Section I Chief Asia Bureau of the For-
9 eign Ministry on his return from a mission to Manchuria,
10 the whole of which MINAMI denied at pages 19,871-6.

11 THE PRESIDENT: Colonel Warren.

12 MR. WARREN: Your Honor, if this is being
13 introduced purely and simply on the grounds of rebuttal
14 testimony I object to it on that ground. If they are
15 introducing it for some other reason I request that
16 the prosecutor be required to state its importance.

17 THE PRESIDENT: Tell us why you think it is
18 not important. If we think it isn't important, we
19 will reject it.

20 MR. WARREN: Well, if your Honor please,
21 undoubtedly at this time whoever wrote this document
22 is taking hearsay evidence of telegrams from the
23 Foreign Ministry or the Overseas Affairs Ministry
24 which the Tribunal already has before it.

25 The statement that "Colonel DOHILARA is also

backing the movement" is without foundation, apparently, although he attempts to quote something that we know he didn't. He couldn't quote it because nowhere has he seen anything that he says he can quote.

After his reference to Colonel DOHIHARA then he starts out with the words "There are others. . .". Obviously that is his own impression, and he invades the province of this Tribunal in attempting to impress that impression on you.

The second paragraph refers to ruffians of the Tokyo area. I think that the Japanese probably would refer to them as ronin, and it has nothing in the world to do with this case.

The next paragraph he starts out "According to the story of MORISHIMA" and he purports to quote the exact conversation which MORISHIMA is supposed to have had. I submit to this Tribunal that MORISHIMA is still alive and they can bring him in here. Anyway, regardless of that, there isn't anything new in here.

Now, this last paragraph "Whenever they drank"--

Oh, yes. Incidentally, with reference to NISHIHARA, which I have been informed means ISHIHARA, I am sure that is correct and the prosecutor agrees with me.

MR. COMYNS CARR: Yes, that is right.

1 MR. WARREN: Well, we took his testimony
2 and you have it all before you, and it contradicts
3 this. We we have the testimony of ISHIHARA concern-
4 ing all this, at least the prosecution had him up there
5 and I am sure they examined him about it. He was
6 their witness.

7 MR. COMYNS CARP: No.

8 MR. WARREN: He was our witness. I am sure
9 they cross-examined him on it. I am sorry, he was our
10 witness.

11 Then in this last paragraph why he quotes
12 somebody but he doesn't say who. He just puts it as
13 a quote, and he is drawing his own conclusion unques-
14 tionably. And then we have this strange thing, these
15 men are going to come over to clear up MITSUI, MITSU-
16 BISHI, the Zaibatsu, and I thought up until this time
17 the prosecution was saying that these were diverse
18 unnamed persons, or at least part of these people were
19 in there.

20
21 So it boils down that they have covered every-
22 thing in here. This could be offered only for one
23 purpose and that would be to impeach the witness, and
24 to use your Honor's words "We are not concerned with
25 that now." But I wish the prosecution would concern
themselves with it.

THE PRESIDENT: Mr. Mattice.

MR. MATTICE: To add an objection on behalf of the accused ITAGAKI, if the Tribunal please.

THE PRESIDENT: We don't want to hear you, Mr. Mattice.

The objections are sustained and the document rejected, by a majority.

MR. COMYNS CARR: I next offer in evidence IPS document No. 3150-13B, relating to 30th September 1931 and concerning the dispatch of troops to Chientao. MINAMI denied that he had proposed this on page 19,860, but on pages 19,865-9 he admitted that he had made such a proposal but denied that the Premier or the Cabinet had refused permission and said that he approved of the dispatch of those troops by the General Staff from the Korean Army.

THE PRESIDENT: Captain Brooks.

MR. BROOKS: Objection is made on the grounds as previously stated, and on the further ground, if your Honors please, that if the prosecution is trying to impeach anyone it is not MINAMI but their own witness WAKATSUKI by secondary evidence.

I wish to also call to the Court's attention that the date 30 September 1931, as I understand it, is the date of the dictation and does not necessarily

1 refer to the statement as made in the body.

2 MR. COMYNS CARR: Your Honor, my friend is
3 mistaken about the date. It is the date to be ascer-
4 tained from a study of the diary on which the conver-
5 sation is actually said to have taken place. It is
6 not the date of the dictation.

7 MR. BROOKS: That can be referred to the
8 Language Section, if your Honors please, or else the
9 excerpt might be rejected in that it is not full enough
10 and complete enough to tie the date in with the con-
11 tents thereof.

12 THE PRESIDENT: By a majority, the objection
13 is overruled and the document admitted on the usual
14 terms.

15 CLERK OF THE COURT: Prosecution document
16 3150-13 will receive exhibit No. 3759 for identifica-
17 tion only, and the excerpt therefrom, being prosecution
18 document 3150-13B will receive exhibit No. 3759-A.

19 (Whereupon, the document above
20 referred to was marked prosecution exhibit
21 No. 3759 for identification, the excerpt
22 therefrom being marked prosecution exhibit
23 No. 3759-A and received in evidence.)

24 MR. COMYNS CARR: (Reading) "30 September,
25 1931.

"After returning, I again met the Premier on other business. The Premier said: 'At the Cabinet meeting, the War Minister repeatedly stressed: "I want to dispatch troops to Chientao." Therefore, I said, 'Absolutely no. If there is any danger, it is better to evacuate the Japanese Nationals!' However, the War Minister retorted: "In case the lives and properties of Japanese residents are endangered, will Your Excellency take the responsibility?" Therefore, I answered: 'That cannot be helped.'

"At a later date, there were incidents and bombings and assaults in Chientao. A Korean who threw the bomb was apprehended and upon investigation, he confessed: 'I did it because I was engaged to do so by Japanese Military.' Such a situation is too dangerous to contemplate."

1 "After returning, I again met the Premier
2 on other business. The Premier said: 'At the Cabinet
3 meeting, the War Minister repeatedly stressed: "I
4 want to dispatch troops to Chientao." Therefore, I
5 said, 'Absolutely no. If there is any danger, it
6 is better to evacuate the Japanese Nationals!' How-
7 ever, the War Minister retorted: "In case the lives
8 and properties of Japanese residents are endangered,
9 will Your Excellency take the responsibility?" There-
10 fore, I answered: 'That cannot be helped.'

11 "At a later date, there were incidents and
12 bombings and assaults in Chientao. A Korean who
13 threw the bomb was apprehended and upon investigation,
14 he confessed: 'I did it because I was engaged to do
15 so by Japanese Military.' Such a situation is too dan-
16 gerous to contemplate."

17
18
19
20
21
22
23
24
25

D
u
d
a
&
S
p
r
a
t
t

1 I next offer in evidence IPS document
2 3150-14A, relating to 1 October 1931. This relates
3 to a proposal in the cabinet that troops should be
4 withdrawn before a meeting of the League Council in
5 Geneva and MINAMI's retort that it would be better
6 to withdraw from the League of Nations. MINAMI
7 denied the whole of this at pages 19,860-61.

8 THE PRESIDENT: Captain Brooks.

9 MR. BROOKS: I object to this on the grounds
10 as previously stated; and for the further reason that
11 SHIDEHARA, the man mentioned here, stated that he
12 was definitely certain that MINAMI never proposed
13 secession from the League of Nations. This is
14 impeaching the witness without showing him the
15 document itself when they have had more than two
16 occasions to do so.

17 MR. COMYNS CARR: Your Honor, might I answer
18 that objection? It is rather necessary that I should
19 do so.

20 It is quite true that SHIDEHARA was called for
21 the prosecution with regard to another matter, but he
22 was called for the defense, and it was in cross-
23 examination of him as a defense witness that he gave
24 the answers to which my friend refers. This excerpt
25 is offered in rebuttal, both of MINAMI's account of

1 this matter and also of SHIDEHARA's account of it
2 as a defense witness.

3 MR. BROOKS: The matter was approached
4 when he was a prosecution witness at page 1384 and
5 also at a later date, and I do not see how they
6 could attack a witness's credibility and vouch for
7 it at the same time.

8 THE PRESIDENT: That applies to both sides
9 here.

10 By a majority the objection is overruled,
11 and the document admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution document
13 3150-14 will receive exhibit No. 3760 for identifi-
14 cation only. The excerpt therefrom, being prosecu-
15 tion document No. 3150-14A, will receive exhibit
16 No. 3760-A.

17 (Whereupon, the document above
18 referred to was marked prosecution exhibit
19 No. 3760 for identification; and the excerpt
20 therefrom was marked prosecution exhibit
21 3760-A and received in evidence.)

22 MR. COMYNS CARR: (Reading)

23 "1 October 1931.

24 "In the Cabinet Meeting of the 1st of
25 October, Foreign Minister SHIDEHARA stated that he

...matter was approached
...date, and I do not see how they
...a witness's credibility and vouch for
...at the same time.

THE PRESIDENT: That applies to both sides

By a majority the objection is overruled,
and the document admitted on the usual terms.
CLERK OF THE COURT: Prosecution document
3150-14 will receive exhibit No. 3760 for identifi-
cation only. The excerpt therefrom, being prosecu-
tion document No. 3150-14A, will receive exhibit
No. 3760-A.

(Whereupon, the document above
referred to was marked prosecution exhibit
No. 376C for identification; and the excerpt
therefrom was marked prosecution exhibit
3760-A and received in evidence.)
MR. COMYNS CARR:
"1 October 1931.
"In the Cabinet Meeting of the 1st of
October, Foreign Minister SHIDEHARA stated that he

...from
...if we
...be very
...able to main-
...ken and Kirin.
...better for Japan to
...tions."

12
13 Prope
14 withdraw
15 Next
16 No. 3150-14B, relat
17 records a discussion between the Premier and MINAMI
18 about the possibility of the army setting up an
19 independent government in Manchuria. At pages
20 19,881-8 MINAMI was asked about this matter. He
21 contradicted himself as to whether the conversation
22 took place at all, but definitely denied that he had
23 made the answer attributed to him.

MR. BROOKS: Objection is made, if the
Tribunal please, on the grounds as previously stated.

1 this matter and also of SHIDEHARA's account of it
2 as a defense witness.

3 MR. BROOKS: The matter was approached
4 when he was a prosecution witness at page 1384 and
5 also at a later date, and I do not see how they
6 could attack a witness's credibility and vouch for
7 it at the same time.

8 THE PRESIDENT: That applies to both sides
9 here.

10 By a majority the objection is overruled,
11 and the document admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution document
13 3150-14 will receive exhibit No. 3760 for identifi-
14 cation only. The excerpt therefrom, being prosecu-
15 tion document No. 3150-14A, will receive exhibit
16 No. 3760-A.

17 (Whereupon, the document above
18 referred to was marked prosecution exhibit
19 No. 376C for identification; and the excerpt
20 therefrom was marked prosecution exhibit
21 3760-A and received in evidence.)

22 MR. COMYNS CARR: (Reading)

23 "1 October 1931.

24 "In the Cabinet Meeting of the 1st of
25 October, Foreign Minister SHIDEHARA stated that he

1 wanted a clarification of attitude before the
2 opening of the Council meeting in Geneva on the
3 14th. If Japan withdraws troops by that time, there
4 will be no problem. The Foreign Minister further
5 stated that the stationing of troops for the purpose
6 of self-protection is all right. However, the main-
7 tenance of more than necessary troops, and the
8 keeping of troops in Kirin and Tungkia is far from
9 good. However, the War Minister said: 'If we
10 withdraw troops now, the situation will be very
11 difficult for us, and we will not be able to main-
12 tain control of the situation in Mukden and Kirin.
13 Properly speaking, I believe it better for Japan to
14 withdraw from the League of Nations.'

15 Next I offer in evidence IPS document
16 No. 3150-14B, relating to 8 October 1931, which
17 records a discussion between the Premier and MINAMI
18 about the possibility of the army setting up an
19 independent government in Manchuria. At pages
20 19,881-8 MINAMI was asked about this matter. He
21 contradicted himself as to whether the conversation
22 took place at all, but definitely denied that he had
23 made the answer attributed to him.

24 MR. BROOKS: Objection is made, if the
25 Tribunal please, on the grounds as previously stated.

1 THE PRESIDENT: By a majority the objection
2 is sustained and the document rejected.

3 MR. COMYNS CARR: I now offer in evidence
4 IPS document No. 3150-15-16A, relating to October
5 22, 1931, again with regard to withdrawal from the
6 League of Nations. MINAMI denied the whole account
7 of this cabinet meeting on pages 19862-5.

8 MR. BROOKS: The same objection, if your
9 Honors please.

10 THE PRESIDENT: By a majority the objection
11 is overruled and the document admitted on the usual
12 terms.

13 CLERK OF THE COURT: Prosecution document
14 3150-15-16 will receive exhibit No. 3761 for identi-
15 fication only. The excerpt therefrom, being prosecu-
16 tion document No. 3150-15-16A, will receive exhibit
17 No. 3761-A.

18 (Whereupon, the document above
19 referred to was marked prosecution exhibit
20 No. 3761 for identification; and the excerpt
21 therefrom was marked prosecution exhibit No.
22 3761-A and received in evidence.)

23 MR. COMYNS CARR: (Reading)

24 "22 October 1931.

25 "The Premier also complained: 'At today's

1 cabinet meeting, the War Minister, MINAMI, Jiro,
2 said an exceedingly outrageous thing in regard
3 to the League of Nations. He said: "There is no
4 need for paying deference to the League of Nations;
5 there should be no objection to seceding from the
6 League. Should Japan be determined to wage war
7 against the whole world, this (T. N. secession
8 from the League) can be readily done. I'll excuse
9 myself now, because I've been invited to the marriage
10 of Prince RIKEN." And he left the cabinet meeting.
11 I'm really troubled because he is such an irre-
12 sponsible person."

13 I now offer in evidence IPS document No.
14 3150-31-32A, in rebuttal of ARAKI's refusal to
15 confirm that Drs. TATE and Batey were consulted
16 by the Japanese Government (page 28,353, second
17 question and answer thereto), that their advice was
18 before the cabinet to which ARAKI belonged (page
19 28,353, third question and answer thereto), and that
20 their advice was that the proposed establishment of
21 Manchukuo by Japan would be contrary to international
22 law (page 28,355, first question, second answer).

23 MR. McMANUS: If the Tribunal please,
24 the Dr. TATE referred to here is also known as Dr.
25 TASHI, and he has published a book entitled,

1 "Current Problems of International Law." On page
2 136 of that book there is a direct contradiction
3 to what is stated here in this excerpt. It is very
4 brief, if the Court pleases, and I shall quote it:

5 "If the self-defensive action in Manchuria
6 resulted in assistance to the separation movement
7 that is not a violation of the Nine-Power Treaty."

8 Now, if the Tribunal wishes or would permit
9 surrebuttal in this case, I should only be too happy
10 to produce that book and render it to the Court for
11 whatever assistance the Tribunal may desire.

12 I object to the document.

13 MR. COMYNS CARR: Your Honor, this is the
14 first I have heard of this gentleman being the same
15 person as the author of the book with a different
16 name, and we have only my friend's word for that.

17 THE PRESIDENT: Not evidence. What is
18 the point of this excerpt, Mr. Carr?

19 MR. COMYNS CARR: To show that it was known
20 to the Japanese authorities that the action which
21 they in fact took was by their own advisers stated
22 to be contradictory to international law.

23 THE PRESIDENT: What particular accused's
24 mind is revealed by this?
25

1 MR. COMYNS CARR: Your Honor, in my sub-
2 mission, it is clear from the last sentence that the
3 advice must have been before the cabinet, and, therefore,
4 every member of the cabinet, including ARAKI, must have
5 known it.

6 THE PRESIDENT: He may not have accepted it
7 so that we can say that he had a guilty mind. This
8 can only go to the state of mind of the accused, and
9 what accused? And what does it prove about the state
10 of mind of any accused?

11 MR. COMYNS CARR: Your Honor, the matter is
12 entirely in the hands of the Tribunal. I have said
13 all I have to say about it.

14 THE PRESIDENT: By a majority, the objection
15 is sustained and the document rejected.

16 MR. COMYNS CARR: I now offer in evidence
17 IPS document No. 3150-31-32B, in rebuttal of (1) ARAKI's
18 denial of having told Finance Minister TAKAHASHI that
19 in order to recover its prestige, the army must be sent
20 to Shanghai to shoot, page 28,344, first question and
21 answer thereto; and (2) his refusal to admit saying
22 that if the Chinese did not retreat twenty kilometres
23 he would continue to batter, page 28,343, last question
24 and answer thereto.

25 THE PRESIDENT: Mr. McManus.

1 MR. McMANUS: I offer the same objection, if
2 the Tribunal please, and call to the attention of the
3 Court that, of course, this testimony is hearsay. And
4 if Mr. TAKAHASHI can claim more credibility than offi-
5 cial documents, why, that is a matter for the Tribunal;
6 and if there will be a surrebuttal, I am sure that I
7 can produce those official documents.

8 I object to the document; I ask the Court to
9 reject it. However, if the Tribunal will receive it,
10 I request the entire document be read, and particularly
11 the last two lines.

12 THE PRESIDENT: Mr. Carr, do you wish to say
13 anything?

14 MR. COMYNS CARR: No, your Honor, except to
15 say that in this case I happen to know that Finance
16 Minister TAKAHASHI is dead.

17 THE PRESIDENT: By a majority, the objection
18 is sustained and the document rejected.

19 MR. COMYNS CARR: I offer in evidence IPS
20 document 3150-31-320, relating to 21 February 1932 and
21 to SHIRATORI's statement attacking the policy of
22 Foreign Minister YOSHIZAWA and urging the appointment
23 of a new Foreign Minister, made in the course of a
24 dinner with Baron HARADA and others.

25 This document is offered to contradict

SHIRATORI's denial on cross-examination at page 35,080
1 that he opposed the policy of Foreign Minister YOSHIZAWA,
2 and his denial at page 35,081 that he had ever urged
3 the dismissal of YOSHIZAWA and the appointment of
4 Vice-Foreign Minister NAGAI in his place.

5 MR. BROOKS: If your Honor please, SHIRATORI's
6 counsel is not present in court. I do not know whether
7 he would wish an objection to be made or not, so I am
8 not proposing to make it.

9 THE PRESIDENT: Well, there are no objections
10 before us. We cannot take an objection except against
11 repetitive documents.

12 MR. LOGAN: We have a general objection, if
13 the Tribunal please, but in view of the conspiracy
14 count, I will take an objection to the document.

15 MR. COMYNS CARR: Your Honor, perhaps I might
16 just say that the matter is more important as going to
17 SHIRATORI's credibility than for the inherent impor-
18 tance of the subject matter.

19 THE PRESIDENT: By a majority, the objection
20 is sustained and the document rejected.

21 MR. COMYNS CARR: I now offer in evidence IPS
22 document No. 3150-36A, in rebuttal of ARAKI's failure
23 to confirm that, at a cabinet meeting on about 11 March
24 1932, it was decided that, as the proposed establishment
25

1 of Manchukuo might be a violation of the Nine-Power
2 Pact, recognition should, at least on the surface, be
3 postponed, page 28,355, first and last questions, and
4 answer to latter, continuing on page 28,356.

5 THE PRESIDENT: Mr. McManus.

6 MR. McMANUS: I object to the document, if
7 the Tribunal pleases, and I call particular attention
8 to the next to the last line, which states that there
9 was an original and corrected plan. I contend, if the
10 Tribunal pleases, that this evidence is valueless
11 unless that original and corrected plan should accom-
12 pany this document.

13 Furthermore, I point out to the Tribunal that
14 it is merely a hearsay discussion of a cabinet meeting
15 by a private person who did not attend such meeting.

16 I also point out to the Tribunal that this
17 particular document will serve to prove that there was
18 no fixed plan prepared beforehand with regard to an
19 independent Manchuria, but that the government made
20 plans accordingly as they developed because of the
21 situation on the spot. Therefore, your Honors might
22 determine that there wasn't any conspiracy at all.

23 However, I formally object to the reception
24 of the document.

25 MR. COMYNS CARR: May it please the Tribunal,

1 if my friend thinks the document helps him, I do not
2 understand why he objects. But with regard to the two
3 objections he has taken--

4 THE PRESIDENT: By a majority, the objections
5 are overruled and the document admitted on the usual
6 terms.

7 CLERK OF THE COURT: Prosecution document
8 3150-36 will receive exhibit No. 3762 for identification
9 only. The excerpt therefrom, being prosecution document
10 3150-36A, will receive exhibit No. 3762-A.

11 (Whereupon, prosecution document
12 No. 3150-36 was marked prosecution's exhibit
13 No. 3762 for identification. Prosecution
14 document No. 3150-36A was marked prosecution's
15 exhibit No. 3762-A and received in evidence.)

16 MR. COLYNS CARR: (Reading) "About 11 March
17 1932.

18 "...The cabinet meeting on Friday was carried
19 over until Saturday. The decision on the Manchurian-
20 Mongolian policy which was the topic of the Inter-
21 Ministry Conference (Army, Navy, Foreign Affairs, and
22 Finance) was reached and was placed before the Cabinet
23 meeting on Friday. At this meeting, various problems
24 were encountered. Among them was the soon to be formed
25 'New Nation' problem, if this were to be looked upon

1 as a violation of the Nine-Power Pact it would be an
2 unsatisfactory state of affairs, then at least on the
3 surface, its recognition should be postponed for the
4 time being. However, if Chang Hsueh-liang acts as an
5 insurgent against the 'New Nation' and sends punitive
6 troops, it will not be able to quell the rebellion
7 because the 'New Nation' has no army. Therefore, in
8 order somehow to safeguard the 'New Nation' the Japanese
9 Army must repel the attack. At the time of the Feng-
10 Chili War /T.N. Civil war between the Feng-Tient Regime
11 and the Chili Regime/ the Japanese Army under the guise
12 of a Manchurian peace preservation force, was on the
13 alert. The problem whether or not we may do the same as
14 in that case raised so much trouble that the Cabinet
15 meeting was carried over to Saturday.

16 "The demands of the Army, to a certain extent,
17 from various standpoints, were repulsed /for the
18 present/. Having obtained the inside story from the
19 Navy Minister, I showed the original and corrected
20 plans to the Prince on Monday..."

21 THE PRESIDENT: It is nearly four o'clock.
22 We will adjourn until half-past nine on Monday next.

23 (Whereupon, at 1600, an adjournment
24 was taken until Monday, 19 January 1948, at
25 0930.)